

As Passed by the Senate

132nd General Assembly

Regular Session

2017-2018

Sub. H. B. No. 145

Representatives Huffman, Sprague

Cosponsors: Representatives Seitz, Blessing, Butler, Clyde, Faber, Anielski, Antonio, Ashford, Barnes, Boyd, Carfagna, Craig, Cupp, Duffey, Fedor, Galonski, Ginter, Green, Greenspan, Hambley, Holmes, Johnson, Kent, Leland, Lepore-Hagan, Manning, O'Brien, Patterson, Patton, Pelanda, Reineke, Roegner, Rogers, Ryan, Sheehy, Stein, Strahorn, Sweeney, Sykes, West, Wiggam

Senators Gardner, Hottinger, Brown, Beagle, Oelslager, Tavares, Coley, Eklund, Hoagland, Huffman, Sykes, Terhar

A BILL

To amend sections 4730.26, 4730.32, 4731.224, 1
4731.24, 4731.25, 4731.291, 4731.573, 4759.02, 2
4759.05, 4759.051, 4759.06, 4759.07, 4759.08, 3
4759.10, 4760.01, 4760.14, 4760.16, 4761.01, 4
4761.03, 4761.032, 4761.04, 4761.05, 4761.06, 5
4761.07, 4761.09, 4761.10, 4761.11, 4761.14, 6
4762.14, 4762.16, 4774.01, 4774.14, 4774.16, 7
5167.01, and 5167.03, to enact sections 8
4731.251, 4731.252, 4731.253, 4759.012, 9
4759.062, 4759.071, 4759.13, 4761.012, 4761.091, 10
4761.19, and 4778.17, and to repeal sections 11
4761.031 and 4761.08 of the Revised Code to 12
provide for the establishment of a confidential 13
program for the treatment of impaired 14
practitioners regulated by the State Medical 15
Board, to modify the laws governing the Board's 16
regulation of dietitians and respiratory care 17
professionals, to make other changes in the laws 18

administered by the Board, to provide that the 19
General Assembly's authorization is needed 20
before long-term care services are further 21
included in the Medicaid managed care system, 22
and to declare an emergency. 23

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4730.26, 4730.32, 4731.224, 24
4731.24, 4731.25, 4731.291, 4731.573, 4759.02, 4759.05, 25
4759.051, 4759.06, 4759.07, 4759.08, 4759.10, 4760.01, 4760.14, 26
4760.16, 4761.01, 4761.03, 4761.032, 4761.04, 4761.05, 4761.06, 27
4761.07, 4761.09, 4761.10, 4761.11, 4761.14, 4762.14, 4762.16, 28
4774.01, 4774.14, 4774.16, 5167.01, and 5167.03 be amended and 29
sections 4731.251, 4731.252, 4731.253, 4759.012, 4759.062, 30
4759.071, 4759.13, 4761.012, 4761.091, 4761.19, and 4778.17 of 31
the Revised Code be enacted to read as follows: 32

Sec. 4730.26. (A) The state medical board shall 33
investigate evidence that appears to show that any person has 34
violated this chapter or a rule adopted under it. In an 35
investigation involving the practice or supervision of a 36
physician assistant pursuant to the policies of a health care 37
facility, the board may require that the health care facility 38
provide any information the board considers necessary to 39
identify either or both of the following: 40

(1) The facility's policies for the practice of physician 41
assistants within the facility; 42

(2) The services that the facility has authorized a 43
particular physician assistant to provide for the facility. 44

(B) Any person may report to the board in a signed writing 45
any information the person has that appears to show a violation 46
of any provision of this chapter or rule adopted under it. In 47
the absence of bad faith, a person who reports such information 48
or testifies before the board in an adjudication conducted under 49
Chapter 119. of the Revised Code shall not be liable for civil 50
damages as a result of reporting the information or providing 51
testimony. Each complaint or allegation of a violation received 52
by the board shall be assigned a case number and be recorded by 53
the board. 54

(C) Investigations of alleged violations of this chapter 55
or rules adopted under it shall be supervised by the supervising 56
member elected by the board in accordance with section 4731.02 57
of the Revised Code and by the secretary as provided in section 58
4730.33 of the Revised Code. The president may designate another 59
member of the board to supervise the investigation in place of 60
the supervising member. A member of the board who supervises the 61
investigation of a case shall not participate in further 62
adjudication of the case. 63

(D) In investigating a possible violation of this chapter 64
or a rule adopted under it, the board may administer oaths, 65
order the taking of depositions, issue subpoenas, and compel the 66
attendance of witnesses and production of books, accounts, 67
papers, records, documents, and testimony, except that a 68
subpoena for patient record information shall not be issued 69
without consultation with the attorney general's office and 70
approval of the secretary and supervising member of the board. 71
Before issuance of a subpoena for patient record information, 72
the secretary and supervising member shall determine whether 73
there is probable cause to believe that the complaint filed 74
alleges a violation of this chapter or a rule adopted under it 75

and that the records sought are relevant to the alleged 76
violation and material to the investigation. The subpoena may 77
apply only to records that cover a reasonable period of time 78
surrounding the alleged violation. 79

On failure to comply with any subpoena issued by the board 80
and after reasonable notice to the person being subpoenaed, the 81
board may move for an order compelling the production of persons 82
or records pursuant to the Rules of Civil Procedure. 83

A subpoena issued by the board may be served by a sheriff, 84
the sheriff's deputy, or a board employee designated by the 85
board. Service of a subpoena issued by the board may be made by 86
delivering a copy of the subpoena to the person named therein, 87
reading it to the person, or leaving it at the person's usual 88
place of residence. When the person being served is a physician 89
assistant, service of the subpoena may be made by certified 90
mail, restricted delivery, return receipt requested, and the 91
subpoena shall be deemed served on the date delivery is made or 92
the date the person refuses to accept delivery. 93

A sheriff's deputy who serves a subpoena shall receive the 94
same fees as a sheriff. Each witness who appears before the 95
board in obedience to a subpoena shall receive the fees and 96
mileage provided for under section 119.094 of the Revised Code. 97

(E) All hearings and investigations of the board shall be 98
considered civil actions for the purposes of section 2305.252 of 99
the Revised Code. 100

(F) Information received by the board pursuant to an 101
investigation is confidential and not subject to discovery in 102
any civil action. 103

The board shall conduct all investigations and proceedings 104

in a manner that protects the confidentiality of patients and 105
persons who file complaints with the board. The board shall not 106
make public the names or any other identifying information about 107
patients or complainants unless proper consent is given or, in 108
the case of a patient, a waiver of the patient privilege exists 109
under division (B) of section 2317.02 of the Revised Code, 110
except that consent or a waiver is not required if the board 111
possesses reliable and substantial evidence that no bona fide 112
physician-patient relationship exists. 113

The board may share any information it receives pursuant 114
to an investigation, including patient records and patient 115
record information, with law enforcement agencies, other 116
licensing boards, and other governmental agencies that are 117
prosecuting, adjudicating, or investigating alleged violations 118
of statutes or administrative rules. An agency or board that 119
receives the information shall comply with the same requirements 120
regarding confidentiality as those with which the state medical 121
board must comply, notwithstanding any conflicting provision of 122
the Revised Code or procedure of the agency or board that 123
applies when it is dealing with other information in its 124
possession. In a judicial proceeding, the information may be 125
admitted into evidence only in accordance with the Rules of 126
Evidence, but the court shall require that appropriate measures 127
are taken to ensure that confidentiality is maintained with 128
respect to any part of the information that contains names or 129
other identifying information about patients or complainants 130
whose confidentiality was protected by the state medical board 131
when the information was in the board's possession. Measures to 132
ensure confidentiality that may be taken by the court include 133
sealing its records or deleting specific information from its 134
records. 135

(G) The state medical board shall develop requirements for 136
and provide appropriate initial and continuing training for 137
investigators employed by the board to carry out its duties 138
under this chapter. The training and continuing education may 139
include enrollment in courses operated or approved by the Ohio 140
peace officer training ~~council~~ commission that the board 141
considers appropriate under conditions set forth in section 142
109.79 of the Revised Code. 143

(H) On a quarterly basis, the board shall prepare a report 144
that documents the disposition of all cases during the preceding 145
three months. The report shall contain the following information 146
for each case with which the board has completed its activities: 147

(1) The case number assigned to the complaint or alleged 148
violation; 149

(2) The type of ~~certificate~~ license, if any, held by the 150
individual against whom the complaint is directed; 151

(3) A description of the allegations contained in the 152
complaint; 153

(4) The disposition of the case. 154

The report shall state how many cases are still pending, 155
and shall be prepared in a manner that protects the identity of 156
each person involved in each case. The report shall be submitted 157
to the physician assistant policy committee of the board and is 158
a public record for purposes of section 149.43 of the Revised 159
Code. 160

Sec. 4730.32. (A) Within sixty days after the imposition 161
of any formal disciplinary action taken by a health care 162
facility against any individual holding a valid license to 163
practice as a physician assistant issued under this chapter, the 164

chief administrator or executive officer of the facility shall 165
report to the state medical board the name of the individual, 166
the action taken by the facility, and a summary of the 167
underlying facts leading to the action taken. Upon request, the 168
board shall be provided certified copies of the patient records 169
that were the basis for the facility's action. Prior to release 170
to the board, the summary shall be approved by the peer review 171
committee that reviewed the case or by the governing board of 172
the facility. 173

The filing of a report with the board or decision not to 174
file a report, investigation by the board, or any disciplinary 175
action taken by the board, does not preclude a health care 176
facility from taking disciplinary action against a physician 177
assistant. 178

In the absence of fraud or bad faith, no individual or 179
entity that provides patient records to the board shall be 180
liable in damages to any person as a result of providing the 181
records. 182

~~(B) A-(1) Except as provided in division (B) (2) of this 183
section, a physician assistant, professional association or 184
society of physician assistants, physician, or professional 185
association or society of physicians that believes a violation 186
of any provision of this chapter, Chapter 4731. of the Revised 187
Code, or rule of the board has occurred shall report to the 188
board the information upon which the belief is based. This 189
division does not require any treatment provider approved by the 190
board under section 4731.25 of the Revised Code or any employee, 191
agent, or representative of such a provider to make reports with 192
respect to a physician assistant participating in treatment or 193
aftercare for substance abuse as long as the physician assistant 194~~

~~maintains participation in accordance with the requirements of~~ 195
~~section 4731.25 of the Revised Code and the treatment provider~~ 196
~~or employee, agent, or representative of the provider has no~~ 197
~~reason to believe that the physician assistant has violated any~~ 198
~~provision of this chapter or rule adopted under it, other than~~ 199
~~being impaired by alcohol, drugs, or other substances. This~~ 200
~~division does not require reporting by any member of an impaired~~ 201
~~practitioner committee established by a health care facility or~~ 202
~~by any representative or agent of a committee or program~~ 203
~~sponsored by a professional association or society of physician~~ 204
~~assistants to provide peer assistance to physician assistants~~ 205
~~with substance abuse problems with respect to a physician~~ 206
~~assistant who has been referred for examination to a treatment~~ 207
~~program approved by the board under section 4731.25 of the~~ 208
~~Revised Code if the physician assistant cooperates with the~~ 209
~~referral for examination and with any determination that the~~ 210
~~physician assistant should enter treatment and as long as the~~ 211
~~committee member, representative, or agent has no reason to~~ 212
~~believe that the physician assistant has ceased to participate~~ 213
~~in the treatment program in accordance with section 4731.25 of~~ 214
~~the Revised Code or has violated any provision of this chapter~~ 215
~~or rule adopted under it, other than being impaired by alcohol,~~ 216
~~drugs, or other substances.~~ 217

(2) A physician assistant, professional association or 218
society of physician assistants, physician, or professional 219
association or society of physicians that believes that a 220
violation of division (B) (5) of section 4730.25 of the Revised 221
Code has occurred shall report the information upon which the 222
belief is based to the monitoring organization conducting the 223
program established by the board under section 4731.251 of the 224
Revised Code. If any such report is made to the board, it shall 225

be referred to the monitoring organization unless the board is 226
aware that the individual who is the subject of the report does 227
not meet the program eligibility requirements of section 228
4731.252 of the Revised Code. 229

(C) Any professional association or society composed 230
primarily of physician assistants that suspends or revokes an 231
individual's membership for violations of professional ethics, 232
or for reasons of professional incompetence or professional 233
malpractice, within sixty days after a final decision, shall 234
report to the board, on forms prescribed and provided by the 235
board, the name of the individual, the action taken by the 236
professional organization, and a summary of the underlying facts 237
leading to the action taken. 238

The filing or nonfiling of a report with the board, 239
investigation by the board, or any disciplinary action taken by 240
the board, shall not preclude a professional organization from 241
taking disciplinary action against a physician assistant. 242

(D) Any insurer providing professional liability insurance 243
to any person holding a valid license to practice as a physician 244
assistant issued under this chapter or any other entity that 245
seeks to indemnify the professional liability of a physician 246
assistant shall notify the board within thirty days after the 247
final disposition of any written claim for damages where such 248
disposition results in a payment exceeding twenty-five thousand 249
dollars. The notice shall contain the following information: 250

(1) The name and address of the person submitting the 251
notification; 252

(2) The name and address of the insured who is the subject 253
of the claim; 254

(3) The name of the person filing the written claim;	255
(4) The date of final disposition;	256
(5) If applicable, the identity of the court in which the final disposition of the claim took place.	257 258
(E) The board may investigate possible violations of this chapter or the rules adopted under it that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for malpractice within the previous five-year period, each resulting in a judgment or settlement in excess of twenty-five thousand dollars in favor of the claimant, and each involving negligent conduct by the physician assistant.	259 260 261 262 263 264 265 266 267 268
(F) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving a physician assistant, supervising physician, or health care facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against a physician assistant or supervising physician, or in any subsequent trial or appeal of a board action or order.	269 270 271 272 273 274 275 276 277 278 279
The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing a physician assistant or	280 281 282 283

supervising physician or reviewing their privilege to practice 284
within a particular facility. The board shall indicate whether 285
or not the information has been verified. Information 286
transmitted by the board shall be subject to the same 287
confidentiality provisions as when maintained by the board. 288

(G) Except for reports filed by an individual pursuant to 289
division (B) of this section, the board shall send a copy of any 290
reports or summaries it receives pursuant to this section to the 291
physician assistant. The physician assistant shall have the 292
right to file a statement with the board concerning the 293
correctness or relevance of the information. The statement shall 294
at all times accompany that part of the record in contention. 295

(H) An individual or entity that reports to the board, 296
reports to the monitoring organization described in section 297
4731.251 of the Revised Code, or refers an impaired physician 298
assistant to a treatment provider approved by the board under 299
section 4731.25 of the Revised Code shall not be subject to suit 300
for civil damages as a result of the report, referral, or 301
provision of the information. 302

(I) In the absence of fraud or bad faith, a professional 303
association or society of physician assistants that sponsors a 304
committee or program to provide peer assistance to a physician 305
assistant with substance abuse problems, a representative or 306
agent of such a committee or program, a representative or agent 307
of the monitoring organization described in section 4731.251 of 308
the Revised Code, and a member of the state medical board shall 309
not be held liable in damages to any person by reason of actions 310
taken to refer a physician assistant to a treatment provider 311
approved under section 4731.25 of the Revised Code for 312
examination or treatment. 313

Sec. 4731.224. (A) Within sixty days after the imposition 314
of any formal disciplinary action taken by any health care 315
facility, including a hospital, health care facility operated by 316
a health insuring corporation, ambulatory surgical center, or 317
similar facility, against any individual holding a valid license 318
or certificate to practice issued pursuant to this chapter, the 319
chief administrator or executive officer of the facility shall 320
report to the state medical board the name of the individual, 321
the action taken by the facility, and a summary of the 322
underlying facts leading to the action taken. Upon request, the 323
board shall be provided certified copies of the patient records 324
that were the basis for the facility's action. Prior to release 325
to the board, the summary shall be approved by the peer review 326
committee that reviewed the case or by the governing board of 327
the facility. As used in this division, "formal disciplinary 328
action" means any action resulting in the revocation, 329
restriction, reduction, or termination of clinical privileges 330
for violations of professional ethics, or for reasons of medical 331
incompetence, or medical malpractice, ~~or drug or alcohol abuse.~~ 332
"Formal disciplinary action" includes a summary action, an 333
action that takes effect notwithstanding any appeal rights that 334
may exist, and an action that results in an individual 335
surrendering clinical privileges while under investigation and 336
during proceedings regarding the action being taken or in return 337
for not being investigated or having proceedings held. "Formal 338
disciplinary action" does not include any action taken for the 339
sole reason of failure to maintain records on a timely basis or 340
failure to attend staff or section meetings. 341

The filing or nonfiling of a report with the board, 342
investigation by the board, or any disciplinary action taken by 343
the board, shall not preclude any action by a health care 344

facility to suspend, restrict, or revoke the individual's 345
clinical privileges. 346

In the absence of fraud or bad faith, no individual or 347
entity that provides patient records to the board shall be 348
liable in damages to any person as a result of providing the 349
records. 350

(B) ~~If (1) Except as provided in division (B) (2) of this 351
section, if any individual authorized to practice under this 352
chapter or any professional association or society of such 353
individuals believes that a violation of any provision of this 354
chapter, Chapter 4730., 4759., 4760., 4761., 4762., 4774., or 355
4778. of the Revised Code, or any rule of the board has 356
occurred, the individual, association, or society shall report 357
to the board the information upon which the belief is based. 358
This division does not require any treatment provider approved 359
by the board under section 4731.25 of the Revised Code or any 360
employee, agent, or representative of such a provider to make 361
reports with respect to an impaired practitioner participating 362
in treatment or aftercare for substance abuse as long as the 363
practitioner maintains participation in accordance with the 364
requirements of section 4731.25 of the Revised Code, and as long 365
as the treatment provider or employee, agent, or representative 366
of the provider has no reason to believe that the practitioner 367
has violated any provision of this chapter or any rule adopted 368
under it, other than the provisions of division (B) (26) of 369
section 4731.22 of the Revised Code. This division does not 370
require reporting by any member of an impaired practitioner 371
committee established by a health care facility or by any 372
representative or agent of a committee or program sponsored by a 373
professional association or society of individuals authorized to 374
practice under this chapter to provide peer assistance to 375~~

~~practitioners with substance abuse problems with respect to a 376
practitioner who has been referred for examination to a 377
treatment program approved by the board under section 4731.25 of 378
the Revised Code if the practitioner cooperates with the 379
referral for examination and with any determination that the 380
practitioner should enter treatment and as long as the committee 381
member, representative, or agent has no reason to believe that 382
the practitioner has ceased to participate in the treatment 383
program in accordance with section 4731.25 of the Revised Code 384
or has violated any provision of this chapter or any rule 385
adopted under it, other than the provisions of division (B) (26) 386
of section 4731.22 of the Revised Code. 387~~

(2) If any individual authorized to practice under this 388
chapter or any professional association or society of such 389
individuals believes that a violation of division (B) (26) of 390
section 4731.22 of the Revised Code has occurred, the 391
individual, association, or society shall report the information 392
upon which the belief is based to the monitoring organization 393
conducting the program established by the board under section 394
4731.251 of the Revised Code. If any such report is made to the 395
board, it shall be referred to the monitoring organization 396
unless the board is aware that the individual who is the subject 397
of the report does not meet the program eligibility requirements 398
of section 4731.252 of the Revised Code. 399

(C) Any professional association or society composed 400
primarily of doctors of medicine and surgery, doctors of 401
osteopathic medicine and surgery, doctors of podiatric medicine 402
and surgery, or practitioners of limited branches of medicine 403
that suspends or revokes an individual's membership for 404
violations of professional ethics, or for reasons of 405
professional incompetence or professional malpractice, within 406

sixty days after a final decision shall report to the board, on 407
forms prescribed and provided by the board, the name of the 408
individual, the action taken by the professional organization, 409
and a summary of the underlying facts leading to the action 410
taken. 411

The filing of a report with the board or decision not to 412
file a report, investigation by the board, or any disciplinary 413
action taken by the board, does not preclude a professional 414
organization from taking disciplinary action against an 415
individual. 416

(D) Any insurer providing professional liability insurance 417
to an individual authorized to practice under this chapter, or 418
any other entity that seeks to indemnify the professional 419
liability of such an individual, shall notify the board within 420
thirty days after the final disposition of any written claim for 421
damages where such disposition results in a payment exceeding 422
twenty-five thousand dollars. The notice shall contain the 423
following information: 424

(1) The name and address of the person submitting the 425
notification; 426

(2) The name and address of the insured who is the subject 427
of the claim; 428

(3) The name of the person filing the written claim; 429

(4) The date of final disposition; 430

(5) If applicable, the identity of the court in which the 431
final disposition of the claim took place. 432

(E) The board may investigate possible violations of this 433
chapter or the rules adopted under it that are brought to its 434

attention as a result of the reporting requirements of this 435
section, except that the board shall conduct an investigation if 436
a possible violation involves repeated malpractice. As used in 437
this division, "repeated malpractice" means three or more claims 438
for medical malpractice within the previous five-year period, 439
each resulting in a judgment or settlement in excess of twenty- 440
five thousand dollars in favor of the claimant, and each 441
involving negligent conduct by the practicing individual. 442

(F) All summaries, reports, and records received and 443
maintained by the board pursuant to this section shall be held 444
in confidence and shall not be subject to discovery or 445
introduction in evidence in any federal or state civil action 446
involving a health care professional or facility arising out of 447
matters that are the subject of the reporting required by this 448
section. The board may use the information obtained only as the 449
basis for an investigation, as evidence in a disciplinary 450
hearing against an individual whose practice is regulated under 451
this chapter, or in any subsequent trial or appeal of a board 452
action or order. 453

The board may disclose the summaries and reports it 454
receives under this section only to health care facility 455
committees within or outside this state that are involved in 456
credentialing or recredentialing the individual or in reviewing 457
the individual's clinical privileges. The board shall indicate 458
whether or not the information has been verified. Information 459
transmitted by the board shall be subject to the same 460
confidentiality provisions as when maintained by the board. 461

(G) Except for reports filed by an individual pursuant to 462
division (B) of this section, the board shall send a copy of any 463
reports or summaries it receives pursuant to this section to the 464

individual who is the subject of the reports or summaries. The 465
individual shall have the right to file a statement with the 466
board concerning the correctness or relevance of the 467
information. The statement shall at all times accompany that 468
part of the record in contention. 469

(H) An individual or entity that, pursuant to this 470
section, reports to the board, reports to the monitoring 471
organization described in section 4731.251 of the Revised Code, 472
or refers an impaired practitioner to a treatment provider 473
approved by the board under section 4731.25 of the Revised Code 474
shall not be subject to suit for civil damages as a result of 475
the report, referral, or provision of the information. 476

(I) In the absence of fraud or bad faith, no professional 477
association or society of individuals authorized to practice 478
under this chapter that sponsors a committee or program to 479
provide peer assistance to practitioners with substance abuse 480
problems, no representative or agent of such a committee or 481
program, no representative or agent of the monitoring 482
organization described in section 4731.251 of the Revised Code, 483
and no member of the state medical board shall be held liable in 484
damages to any person by reason of actions taken to refer a 485
practitioner to a treatment provider approved under section 486
4731.25 of the Revised Code for examination or treatment. 487

Sec. 4731.24. Except as provided in sections 4731.281 and 488
4731.40 of the Revised Code, all receipts of the state medical 489
board, from any source, shall be deposited in the state 490
treasury. The funds shall be deposited to the credit of the 491
state medical board operating fund, which is hereby created. 492
Except as provided in sections 4730.252, 4731.225, 4731.24, 493
4759.071, 4760.133, 4761.091, 4762.133, 4774.133, and 4778.141 494

of the Revised Code, all funds deposited into the state treasury 495
under this section shall be used solely for the administration 496
and enforcement of this chapter and Chapters 4730., 4759., 497
4760., 4761., 4762., 4774., and 4778. of the Revised Code by the 498
board. 499

Sec. 4731.25. The state medical board, in accordance with 500
Chapter 119. of the Revised Code, shall adopt and may amend and 501
rescind rules establishing standards for approval of physicians 502
and facilities as treatment providers for ~~impaired~~ practitioners 503
~~who are regulated under this chapter or Chapter 4730., 4759.,~~ 504
~~4760., 4761., 4762., 4774., or 4778. suffering or showing~~ 505
evidence of suffering impairment as described in division (B) (5) 506
of section 4730.25, division (B) (26) of section 4731.22, 507
division (A) (18) of section 4759.07, division (B) (6) of section 508
4760.13, division (A) (18) of section 4761.09, division (B) (6) of 509
section 4762.13, division (B) (6) of section 4774.13, or division 510
(B) (6) of section 4778.14 of the Revised Code. The rules shall 511
include standards for both inpatient and outpatient treatment 512
and for care and monitoring that continues after treatment. The 513
rules shall provide that in order to be approved, a treatment 514
provider must have the capability of making an initial 515
examination to determine what type of treatment an impaired 516
practitioner requires. Subject to the rules, the board shall 517
review and approve treatment providers on a regular basis. The 518
board, at its discretion, may withdraw or deny approval subject 519
to the rules. 520

An approved impaired practitioner treatment provider shall 521
do all of the following: 522

(A) Report to the board the name of any practitioner 523
suffering or showing evidence of suffering impairment ~~as~~ 524

~~described in division (B) (5) of section 4730.25 of the Revised Code, division (B) (26) of section 4731.22 of the Revised Code, division (A) (4) of section 4759.07 of the Revised Code, division (B) (6) of section 4760.13 of the Revised Code, division (B) (6) of section 4762.13 of the Revised Code, division (B) (6) of section 4774.13 of the Revised Code, or division (B) (6) of section 4778.14 of the Revised Code~~ who fails to comply within one week with a referral for examination; 525
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(B) Report to the board the name of any impaired practitioner who fails to enter treatment within forty-eight hours following the provider's determination that the practitioner needs treatment; 533
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(C) Require every practitioner who enters treatment to agree to a treatment contract establishing the terms of treatment and aftercare, including any required supervision or restrictions of practice during treatment or aftercare; 537
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(D) Require a practitioner to suspend practice upon entry into any required inpatient treatment; 541
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(E) Report to the board any failure by an impaired practitioner to comply with the terms of the treatment contract during inpatient or outpatient treatment or aftercare; 543
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(F) Report to the board the resumption of practice of any impaired practitioner before the treatment provider has made a clear determination that the practitioner is capable of practicing according to acceptable and prevailing standards of care; 546
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(G) Require a practitioner who resumes practice after completion of treatment to comply with an aftercare contract that meets the requirements of rules adopted by the board for 551
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approval of treatment providers; 554

(H) Report the identity of any practitioner practicing 555
under the terms of an aftercare contract to hospital 556
administrators, medical chiefs of staff, and chairpersons of 557
impaired practitioner committees of all health care institutions 558
at which the practitioner holds clinical privileges or otherwise 559
practices. If the practitioner does not hold clinical privileges 560
at any health care institution, the treatment provider shall 561
report the practitioner's identity to the impaired practitioner 562
committee of the county medical society, osteopathic academy, or 563
podiatric medical association in every county in which the 564
practitioner practices. If there are no impaired practitioner 565
committees in the county, the treatment provider shall report 566
the practitioner's identity to the president or other designated 567
member of the county medical society, osteopathic academy, or 568
podiatric medical association. 569

(I) Report to the board the identity of any practitioner 570
who suffers a relapse at any time during or following aftercare. 571

Any individual authorized to practice under this chapter 572
who enters into treatment by an approved treatment provider 573
shall be deemed to have waived any confidentiality requirements 574
that would otherwise prevent the treatment provider from making 575
reports required under this section. 576

In the absence of fraud or bad faith, no person or 577
organization that conducts an approved impaired practitioner 578
treatment program, no member of such an organization, and no 579
employee, representative, or agent of the treatment provider 580
shall be held liable in damages to any person by reason of 581
actions taken or recommendations made by the treatment provider 582
or its employees, representatives, or agents. 583

<u>Sec. 4731.251. (A) As used in this section and in sections</u>	584
<u>4731.252 and 4731.253 of the Revised Code;</u>	585
<u>(1) "Impaired" or "impairment" has the same meaning as in</u>	586
<u>division (B) (5) of section 4730.25, division (B) (26) of section</u>	587
<u>4731.22, division (A) (18) of section 4759.07, division (B) (6) of</u>	588
<u>section 4760.13, division (A) (18) of section 4761.09, division</u>	589
<u>(B) (6) of section 4762.13, division (B) (6) of section 4774.13,</u>	590
<u>or division (B) (6) of section 4778.14 of the Revised Code.</u>	591
<u>(2) "Practitioner" means any of the following:</u>	592
<u>(a) An individual authorized under this chapter to</u>	593
<u>practice medicine and surgery, osteopathic medicine and surgery,</u>	594
<u>podiatric medicine and surgery, or a limited branch of medicine;</u>	595
<u>(b) An individual licensed under Chapter 4730. of the</u>	596
<u>Revised Code to practice as a physician assistant;</u>	597
<u>(c) An individual authorized under Chapter 4759. of the</u>	598
<u>Revised Code to practice as a dietitian;</u>	599
<u>(d) An individual authorized under Chapter 4760. of the</u>	600
<u>Revised Code to practice as an anesthesiologist assistant;</u>	601
<u>(e) An individual authorized under Chapter 4761. of the</u>	602
<u>Revised Code to practice respiratory care;</u>	603
<u>(f) An individual authorized under Chapter 4762. of the</u>	604
<u>Revised Code to practice as an acupuncturist or oriental</u>	605
<u>medicine practitioner;</u>	606
<u>(g) An individual authorized under Chapter 4774. of the</u>	607
<u>Revised Code to practice as a radiologist assistant;</u>	608
<u>(h) An individual licensed under Chapter 4778. of the</u>	609
<u>Revised Code to practice as a genetic counselor.</u>	610

(B) The state medical board shall establish a confidential 611
program for treatment of impaired practitioners, which shall be 612
known as the one-bite program. The board shall contract with one 613
organization to conduct the program and perform monitoring 614
services. 615

To be qualified to contract with the board under this 616
section, an organization must meet all of the following 617
requirements: 618

(1) Be sponsored by one or more professional associations 619
or societies of practitioners; 620

(2) Be organized as a not-for-profit entity and exempt 621
from federal income taxation under subsection 501(c)(3) of the 622
Internal Revenue Code; 623

(3) Contract with or employ to serve as the organization's 624
medical director an individual who is authorized under this 625
chapter to practice medicine and surgery or osteopathic medicine 626
and surgery and specializes or has training and expertise in 627
addiction medicine; 628

(4) Contract with or employ one or more of the following 629
as necessary for the organization's operation: 630

(a) An individual licensed under Chapter 4758. of the 631
Revised Code as an independent chemical dependency counselor- 632
clinical supervisor, independent chemical dependency counselor, 633
chemical dependency counselor III, or chemical dependency 634
counselor II; 635

(b) An individual licensed under Chapter 4757. of the 636
Revised Code as an independent social worker, social worker, 637
licensed professional clinical counselor, or licensed 638
professional counselor; 639

(c) An individual licensed under Chapter 4732. of the 640
Revised Code as a psychologist. 641

(C) The monitoring organization shall do all of the 642
following pursuant to the contract: 643

(1) Receive any report of suspected impairment, including 644
a report made under division (B) (2) of section 4730.32, division 645
(B) (2) of section 4731.224, section 4759.13, division (B) (2) of 646
section 4760.16, section 4761.19, division (B) (2) of section 647
4762.16, division (B) (2) of section 4774.16, or section 4778.17 648
of the Revised Code; 649

(2) Notify a practitioner who is the subject of a report 650
received under division (C) (1) of this section that the report 651
has been made and that the practitioner may be eligible to 652
participate in the program conducted under this section; 653

(3) Determine whether a practitioner reported to the 654
monitoring organization is eligible to participate in the 655
program and notify the practitioner of the determination; 656

(4) In the case of a practitioner reported by a treatment 657
provider, notify the treatment provider of the eligibility 658
determination; 659

(5) Report to the board any practitioner who is determined 660
ineligible to participate in the program; 661

(6) Refer an eligible practitioner who chooses to 662
participate in the program for evaluation by a treatment 663
provider approved by the board under section 4731.25 of the 664
Revised Code, unless the report received by the monitoring 665
organization was made by an approved treatment provider and the 666
practitioner has already been evaluated by the treatment 667
provider; 668

- (7) Monitor the evaluation of an eligible practitioner; 669
- (8) Refer an eligible practitioner who chooses to 670
participate in the program to a treatment provider approved by 671
the board under section 4731.25 of the Revised Code; 672
- (9) Establish, in consultation with the treatment provider 673
to which a practitioner is referred, the terms and conditions 674
with which the practitioner must comply for continued 675
participation in and successful completion of the program; 676
- (10) Report to the board any practitioner who does not 677
complete evaluation or treatment or does not comply with any of 678
the terms and conditions established by the monitoring 679
organization and the treatment provider; 680
- (11) Perform any other activities specified in the 681
contract with the board or that the monitoring organization 682
considers necessary to comply with this section and sections 683
4731.252 and 4731.253 of the Revised Code. 684
- (D) The monitoring organization shall not disclose to the 685
board the name of a practitioner or any records relating to a 686
practitioner, unless any of the following occurs: 687
- (1) The practitioner is determined to be ineligible to 688
participate in the program. 689
- (2) The practitioner requests the disclosure. 690
- (3) The practitioner is unwilling or unable to complete or 691
comply with any part of the program, including evaluation, 692
treatment, or monitoring. 693
- (4) The practitioner presents an imminent danger to the 694
public or to the practitioner, as a result of the practitioner's 695
impairment. 696

(5) The practitioner has relapsed or the practitioner's 697
impairment has not been substantially alleviated by 698
participation in the program. 699

(E) (1) The monitoring organization shall develop 700
procedures governing each of the following: 701

(a) Receiving reports of practitioner impairment; 702

(b) Notifying practitioners of reports and eligibility 703
determinations; 704

(c) Referring eligible practitioners for evaluation or 705
treatment; 706

(d) Establishing individualized treatment plans for 707
eligible practitioners, as recommended by treatment providers; 708

(e) Establishing individualized terms and conditions with 709
which eligible practitioners must comply for continued 710
participation in and successful completion of the program. 711

(2) The monitoring organization, in consultation with the 712
board, shall develop procedures governing each of the following: 713

(a) Providing reports to the board on a periodic basis on 714
the total number of practitioners participating in the program, 715
without disclosing the names or records of any program 716
participants other than those about whom reports are required by 717
this section; 718

(b) Reporting to the board any practitioner who due to 719
impairment presents an imminent danger to the public or to the 720
practitioner; 721

(c) Reporting to the board any practitioner who is 722
unwilling or unable to complete or comply with any part of the 723

program, including evaluation, treatment, or monitoring; 724

(d) Reporting to the board any practitioner whose 725
impairment was not substantially alleviated by participation in 726
the program or who has relapsed. 727

(F) The board may adopt any rules it considers necessary 728
to implement this section and sections 4731.252 and 4731.253 of 729
the Revised Code, including rules regarding the monitoring 730
organization and treatment providers that provide treatment to 731
practitioners referred by the monitoring organization. Any such 732
rules shall be adopted in accordance with Chapter 119. of the 733
Revised Code. 734

Sec. 4731.252. (A) A practitioner is eligible to 735
participate in the program established under section 4731.251 of 736
the Revised Code if all of the following are the case: 737

(1) The practitioner is impaired. 738

(2) The practitioner has not participated previously in 739
the program. 740

(3) Unless the state medical board has referred the 741
practitioner to the program, the practitioner has not been 742
sanctioned previously by the board under division (B) (5) of 743
section 4730.25, division (B) (26) of section 4731.22, division 744
(A) (18) of section 4759.07, division (B) (6) of section 4760.13, 745
division (A) (18) of section 4761.09, division (B) (6) of section 746
4762.13, division (B) (6) of section 4774.13, or division (B) (6) 747
of section 4778.14 of the Revised Code. 748

(B) All of the following apply to a practitioner who 749
participates in the program: 750

(1) The practitioner must comply with all terms and 751

conditions for continued participation in and successful 752
completion of the program. 753

(2) On acceptance into the program, the practitioner must 754
suspend practice until after the later of the following: 755

(a) The date the treatment provider determines that the 756
practitioner is no longer impaired and is able to practice 757
according to acceptable and prevailing standards of care; 758

(b) The end of a period specified by the treatment 759
provider, which shall be not less than thirty days. 760

(3) The practitioner is responsible for all costs 761
associated with participation. 762

(4) The practitioner is deemed to have waived any right to 763
confidentiality that would prevent the monitoring organization 764
conducting the program or a treatment provider from making 765
reports required by section 4731.251 of the Revised Code. 766

Sec. 4731.253. In the absence of fraud or bad faith, no 767
monitoring organization that conducts a program established 768
under section 4731.251 of the Revised Code and no agent, 769
employee, member, or representative of such organization shall 770
be liable in damages in a civil action or subject to criminal 771
prosecution for performing any of the duties required by that 772
section, the contract with the state medical board, or section 773
4731.252 of the Revised Code. 774

Sec. 4731.291. (A) An individual seeking to pursue an 775
internship, residency, or clinical fellowship program in this 776
state, who does not hold a license to practice medicine and 777
surgery or osteopathic medicine or surgery issued under this 778
chapter, shall apply to the state medical board for a training 779
certificate. The application shall be made on forms that the 780

board shall furnish and shall be accompanied by an application 781
fee of ~~seventy-five~~ one hundred thirty dollars. 782

An applicant for a training certificate shall furnish to 783
the board all of the following: 784

(1) Evidence satisfactory to the board that the applicant 785
is at least eighteen years of age and is of good moral 786
character. 787

(2) Evidence satisfactory to the board that the applicant 788
has been accepted or appointed to participate in this state in 789
one of the following: 790

(a) An internship or residency program accredited by 791
either the accreditation council for graduate medical education 792
of the American medical association or the American osteopathic 793
association; 794

(b) A clinical fellowship program at an institution with a 795
residency program accredited by either the accreditation council 796
for graduate medical education of the American medical 797
association or the American osteopathic association that is in a 798
clinical field the same as or related to the clinical field of 799
the fellowship program; 800

(3) Information identifying the beginning and ending dates 801
of the period for which the applicant has been accepted or 802
appointed to participate in the internship, residency, or 803
clinical fellowship program; 804

(4) Any other information that the board requires. 805

(B) If no grounds for denying a license or certificate 806
under section 4731.22 of the Revised Code apply, and the 807
applicant meets the requirements of division (A) of this 808

section, the board shall issue a training certificate to the 809
applicant. The board shall not require an examination as a 810
condition of receiving a training certificate. 811

A training certificate issued pursuant to this section 812
shall be valid only for ~~the period of three~~ years, but may in 813
the discretion of the board and upon application duly made, be 814
~~renewed annually thereafter for up to two additional years for~~ 815
one additional three-year period. The fee for renewal of a 816
training certificate shall be ~~thirty five~~ one hundred dollars. 817

The board shall maintain a register of all individuals who 818
hold training certificates. 819

(C) The holder of a valid training certificate shall be 820
entitled to perform such acts as may be prescribed by or 821
incidental to the holder's internship, residency, or clinical 822
fellowship program, but the holder shall not be entitled 823
otherwise to engage in the practice of medicine and surgery or 824
osteopathic medicine and surgery in this state. The holder shall 825
limit activities under the certificate to the programs of the 826
hospitals or facilities for which the training certificate is 827
issued. The holder shall train only under the supervision of the 828
physicians responsible for supervision as part of the 829
internship, residency, or clinical fellowship program. 830

A training certificate may be revoked by the board upon 831
proof, satisfactory to the board, that the holder thereof has 832
engaged in practice in this state outside the scope of the 833
internship, residency, or clinical fellowship program for which 834
the training certificate has been issued, or upon proof, 835
satisfactory to the board, that the holder thereof has engaged 836
in unethical conduct or that there are grounds for action 837
against the holder under section 4731.22 of the Revised Code. 838

(D) The board may adopt rules as the board finds necessary 839
to effect the purpose of this section. 840

Sec. 4731.573. (A) An individual seeking to pursue an 841
internship, residency, or clinical fellowship program in 842
podiatric medicine and surgery in this state, who does not hold 843
a license to practice podiatric medicine and surgery issued 844
under this chapter, shall apply to the state medical board for a 845
training certificate. The application shall be made on forms 846
that the board shall furnish and shall be accompanied by an 847
application fee of ~~seventy-five~~ one hundred thirty dollars. 848

An applicant for a training certificate shall furnish to 849
the board all of the following: 850

(1) Evidence satisfactory to the board that the applicant 851
is at least eighteen years of age and is of good moral 852
character; 853

(2) Evidence satisfactory to the board that the applicant 854
has been accepted or appointed to participate in this state in 855
one of the following: 856

(a) An internship or residency program accredited by 857
either the council on podiatric medical education or the 858
American podiatric medical association; 859

(b) A clinical fellowship program at an institution with a 860
residency program accredited by either the council on podiatric 861
medical education or the American podiatric medical association 862
that is in a clinical field the same as or related to the 863
clinical field of the fellowship program. 864

(3) Information identifying the beginning and ending dates 865
of the period for which the applicant has been accepted or 866
appointed to participate in the internship, residency, or 867

clinical fellowship program; 868

(4) Any other information that the board requires. 869

(B) If no grounds for denying a license or certificate 870
under section 4731.22 of the Revised Code apply and the 871
applicant meets the requirements of division (A) of this 872
section, the board shall issue a training certificate to the 873
applicant. The board shall not require an examination as a 874
condition of receiving a training certificate. 875

A training certificate issued pursuant to this section 876
shall be valid only for ~~the period of one year~~ three years, but 877
may in the discretion of the board and upon application duly 878
made, be renewed ~~annually for a maximum of five years~~ one 879
additional three-year period. The fee for renewal of a training 880
certificate shall be ~~thirty five~~ one hundred dollars. 881

The board shall maintain a register of all individuals who 882
hold training certificates. 883

(C) The holder of a valid training certificate shall be 884
entitled to perform such acts as may be prescribed by or 885
incidental to the holder's internship, residency, or clinical 886
fellowship program, but the holder shall not be entitled 887
otherwise to engage in the practice of podiatric medicine and 888
surgery in this state. The holder shall limit activities under 889
the certificate to the programs of the hospitals or facilities 890
for which the training certificate is issued. The holder shall 891
train only under the supervision of the podiatrists responsible 892
for supervision as part of the internship, residency, or 893
clinical fellowship program. A training certificate may be 894
revoked by the board upon proof, satisfactory to the board, that 895
the holder thereof has engaged in practice in this state outside 896

the scope of the internship, residency, or clinical fellowship 897
program for which the training certificate has been issued, or 898
upon proof, satisfactory to the board, that the holder thereof 899
has engaged in unethical conduct or that there are grounds for 900
action against the holder under section 4731.22 of the Revised 901
Code. 902

(D) The board may adopt rules as the board finds necessary 903
to effect the purpose of this section. 904

Sec. 4759.012. The secretary of the state medical board 905
shall enforce the laws relating to the practice of dietetics. If 906
the secretary has knowledge or notice of a violation of this 907
chapter or the rules adopted under it, the secretary shall 908
investigate the matter and, upon probable cause appearing, file 909
a complaint and prosecute the offender. When requested by the 910
secretary, the prosecuting attorney of the proper county shall 911
take charge of and conduct the prosecution. 912

Sec. 4759.02. (A) Except as otherwise provided in this 913
section or in section 4759.10 of the Revised Code, no person 914
shall practice, offer to practice, or hold self forth to 915
practice dietetics unless the person has been licensed under 916
section 4759.06 of the Revised Code. 917

(B) Except for a ~~licensed dietitian holding an inactive~~ 918
~~license who does not practice or offer to practice dietetics, or~~ 919
~~a~~ person licensed under section 4759.06 of the Revised Code, or 920
as otherwise provided in this section or in section 4759.10 of 921
the Revised Code: 922

(1) No person shall use the title "dietitian"; ~~and~~ 923

(2) No person except for a person licensed under ~~Chapters~~ 924
~~4701. to 4755. Title XLVII~~ of the Revised Code, when acting 925

within the scope of their practice, shall use any other title, 926
designation, words, letters, abbreviation, or insignia or 927
combination of any title, designation, words, letters, 928
abbreviation, or insignia tending to indicate that the person is 929
practicing dietetics. 930

(C) Notwithstanding division (B) of this section, a person 931
who is a dietitian registered by the commission on dietetic 932
registration and who does not violate division (A) of this 933
section may use the designation "registered dietitian" and the 934
abbreviation "R.D." 935

(D) Division (A) of this section does not apply to: 936

(1) A student enrolled in an academic program that is in 937
compliance with division (A) ~~(5)~~ (4) of section 4759.06 of the 938
Revised Code who is engaging in the practice of dietetics under 939
the supervision of a dietitian licensed under section 4759.06 of 940
the Revised Code or a dietitian registered by the commission on 941
dietetic registration, as part of the academic program; 942

(2) A person participating in the pre-professional 943
experience required by division (A) ~~(6)~~ (5) of section 4759.06 of 944
the Revised Code; 945

(3) A person holding a limited permit under division ~~(F)~~ 946
(E) of section 4759.06 of the Revised Code. 947

~~(E) Divisions (A) and (B) of this section do not apply to 948
a person who performs no more than fifteen days of dietetic 949
practice in the state and who meets at least one of the 950
following requirements:— 951~~

~~(1) The state medical board determines that the person is 952
licensed in another state with licensure requirements equivalent 953
to or more stringent than those set forth in this chapter;— 954~~

~~(2) The person is a dietitian registered by the commission on dietetic registration and resides in another state that either has no dietitian licensure requirements or has licensure requirements less stringent than those set forth in this chapter. The attorney general, the prosecuting attorney of any county in which the offense was committed or the offender resides, the state medical board, or any other person having knowledge of a person who either directly or by complicity is in violation of this section, may, in accordance with provisions of the Revised Code governing injunctions, maintain an action in the name of the state to enjoin any person from engaging either directly or by complicity in the unlawful activity by applying for an injunction in the Franklin county court of common pleas or any other court of competent jurisdiction.~~

Prior to application for such injunction, the secretary of the state medical board shall notify the person allegedly engaged either directly or by complicity in the unlawful activity by registered mail that the secretary has received information indicating that the person is so engaged. The person shall answer the secretary within thirty days showing that the person is either properly licensed for the stated activity or that the person is not in violation of this chapter. If the answer is not forthcoming within thirty days after notice by the secretary, the secretary shall request that the attorney general, the prosecuting attorney of the county in which the offense was committed or the offender resides, or the state medical board proceed as authorized in this section.

Upon the filing of a verified petition in court, the court shall conduct a hearing on the petition and shall give the same preference to this proceeding as is given all proceedings under Chapter 119. of the Revised Code, irrespective of the position

of the proceeding on the calendar of the court. Injunction 986
proceedings shall be in addition to, and not in lieu of, all 987
penalties and other remedies provided under this chapter. 988

Sec. 4759.05. (A) ~~The state medical board shall:~~ 989

~~(A)~~ Adopt, adopt, amend, or rescind rules pursuant to 990
Chapter 119. of the Revised Code to carry out the provisions of 991
this chapter, including rules governing the following: 992

(1) Selection and approval of a dietitian licensure 993
examination offered by the commission on dietetic registration 994
or any other examination; 995

(2) The examination of applicants for licensure as a 996
dietitian, ~~to be held at least twice annually,~~ as required under 997
division (A) of section 4759.06 of the Revised Code; 998

(3) Requirements for pre-professional dietetic experience 999
of applicants for licensure as a dietitian that are at least 1000
equivalent to the requirements adopted by the commission on 1001
dietetic registration; 1002

(4) Requirements for a person holding a limited permit 1003
under division ~~(F)~~ (E) of section 4759.06 of the Revised Code, 1004
including the duration of validity of a limited permit and 1005
procedures for renewal; 1006

~~(5) Requirements for a licensed dietitian who places a~~ 1007
~~license in inactive status under division (G) of section 4759.06~~ 1008
~~of the Revised Code, including a procedure for changing inactive~~ 1009
~~status to active status;~~ 1010

~~(6)~~ Continuing education requirements for renewal of a 1011
license, ~~except that the board may adopt rules to waive the~~ 1012
~~requirements for a person who is unable to meet the requirements~~ 1013

~~due to illness or other reasons including rules providing for~~ 1014
~~pro rata reductions by month of the number of hours of~~ 1015
~~continuing education that must be completed for license holders~~ 1016
~~who are in their first renewal period, have been disabled by~~ 1017
~~illness or accident, or have been absent from the country.~~ Rules 1018
adopted under this division shall be consistent with the 1019
continuing education requirements adopted by the commission on 1020
dietetic registration. 1021

~~(7)~~ (6) Any additional education requirements the board 1022
considers necessary, for applicants who have not practiced 1023
dietetics within five years of the initial date of application 1024
for licensure; 1025

~~(8)~~ (7) Standards of professional responsibility and 1026
practice for persons licensed under this chapter that are 1027
consistent with those standards of professional responsibility 1028
and practice adopted by the academy of nutrition and dietetics; 1029

~~(9)~~ (8) Formulation of an application form for licensure 1030
or license renewal ~~that includes the statement that any~~ 1031
~~applicant who knowingly makes a false statement on the~~ 1032
~~application is guilty of a misdemeanor of the first degree under~~ 1033
~~section 2921.13 of the Revised Code;~~ 1034

~~(10)~~ (9) Procedures for license renewal; 1035

~~(11)~~ ~~Establishing a time period after the notification of~~ 1036
~~a violation of section 4759.02 of the Revised Code, by which the~~ 1037
~~person notified must request a hearing by the board under~~ 1038
~~section 4759.09 of the Revised Code;~~ 1039

~~(12)~~ (10) Requirements for criminal records checks of 1040
applicants under section 4776.03 of the Revised Code. 1041

~~(B) Investigate alleged violations of sections 4759.02 to~~ 1042

~~4759.10 of the Revised Code. In making its investigations~~ (1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this chapter or any rule adopted under it. In the absence of bad faith, any person who reports information of that nature or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and shall be recorded by the board. 1043
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(2) Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4759.012 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. No member of the board who supervises the investigation of a case shall participate in further adjudication of the case. 1056
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(3) In investigating a possible violation of this chapter or any rule adopted under this chapter, the board may issue subpoenas, ~~examine~~ question witnesses, ~~and~~ conduct interviews, administer oaths, order the taking of depositions, inspect and copy any books, accounts, papers, records, or documents, and compel the attendance of witnesses and the production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and 1065
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approval of the secretary and supervising member of the board. 1074

Before issuance of a subpoena for patient record 1075
information, the secretary and supervising member shall 1076
determine whether there is probable cause to believe that the 1077
complaint filed alleges a violation of this chapter or any rule 1078
adopted under it and that the records sought are relevant to the 1079
alleged violation and material to the investigation. The 1080
subpoena may apply only to records that cover a reasonable 1081
period of time surrounding the alleged violation. 1082

On failure to comply with any subpoena issued by the board 1083
and after reasonable notice to the person being subpoenaed, the 1084
board may move for an order compelling the production of persons 1085
or records pursuant to the Rules of Civil Procedure. 1086

A subpoena issued by the board may be served by a sheriff, 1087
the sheriff's deputy, or a board employee designated by the 1088
board. Service of a subpoena issued by the board may be made by 1089
delivering a copy of the subpoena to the person named therein, 1090
reading it to the person, or leaving it at the person's usual 1091
place of residence, usual place of business, or address on file 1092
with the board. When serving a subpoena to an applicant for or 1093
the holder of a license or limited permit issued under this 1094
chapter, service of the subpoena may be made by certified mail, 1095
return receipt requested, and the subpoena shall be deemed 1096
served on the date delivery is made or the date the person 1097
refuses to accept delivery. If the person being served refuses 1098
to accept the subpoena or is not located, service may be made to 1099
an attorney who notifies the board that the attorney is 1100
representing the person. 1101

A sheriff's deputy who serves a subpoena shall receive the 1102
same fees as a sheriff. Each witness who appears before the 1103

board in obedience to a subpoena shall receive the fees and 1104
mileage provided for under section 119.094 of the Revised Code. 1105

(4) All hearings, investigations, and inspections of the 1106
board shall be considered civil actions for the purposes of 1107
section 2305.252 of the Revised Code. 1108

(5) A report required to be submitted to the board under 1109
this chapter, a complaint, or information received by the board 1110
pursuant to an investigation is confidential and not subject to 1111
discovery in any civil action. 1112

The board shall conduct all investigations or inspections 1113
and proceedings in a manner that protects the confidentiality of 1114
patients and persons who file complaints with the board. The 1115
board shall not make public the names or any other identifying 1116
information about patients or complainants unless proper consent 1117
is given. 1118

The board may share any information it receives pursuant 1119
to an investigation or inspection, including patient records and 1120
patient record information, with law enforcement agencies, other 1121
licensing boards, and other governmental agencies that are 1122
prosecuting, adjudicating, or investigating alleged violations 1123
of statutes or administrative rules. An agency or board that 1124
receives the information shall comply with the same requirements 1125
regarding confidentiality as those with which the state medical 1126
board must comply, notwithstanding any conflicting provision of 1127
the Revised Code or procedure of the agency or board that 1128
applies when it is dealing with other information in its 1129
possession. In a judicial proceeding, the information may be 1130
admitted into evidence only in accordance with the Rules of 1131
Evidence, but the court shall require that appropriate measures 1132
are taken to ensure that confidentiality is maintained with 1133

respect to any part of the information that contains names or 1134
other identifying information about patients or complainants 1135
whose confidentiality was protected by the state medical board 1136
when the information was in the board's possession. Measures to 1137
ensure confidentiality that may be taken by the court include 1138
sealing its records or deleting specific information from its 1139
records. 1140

(6) On a quarterly basis, the board shall prepare a report 1141
that documents the disposition of all cases during the preceding 1142
three months. The report shall contain the following information 1143
for each case with which the board has completed its activities: 1144

(a) The case number assigned to the complaint or alleged 1145
violation; 1146

(b) The type of license, if any, held by the individual 1147
against whom the complaint is directed; 1148

(c) A description of the allegations contained in the 1149
complaint; 1150

(d) The disposition of the case. 1151

The report shall state how many cases are still pending 1152
and shall be prepared in a manner that protects the identity of 1153
each person involved in each case. The report shall be a public 1154
record under section 149.43 of the Revised Code. 1155

~~(C) Conduct meetings and~~ The board shall keep records as 1156
are necessary to carry out the provisions of this chapter. 1157

~~(D) Publish, and make available to the public, upon~~ 1158
~~request and for a fee not to exceed the actual cost of printing~~ 1159
~~and mailing,~~ The board shall maintain and publish on its 1160
internet web site the board's rules and requirements for 1161

licensure adopted under division (A) of this section. 1162

Sec. 4759.051. (A) The state medical board shall appoint a 1163
dietetics advisory council for the purpose of advising the board 1164
on issues relating to the practice of dietetics ~~and the~~ 1165
~~investigation of complaints regarding the practice of dietetics.~~ 1166
The advisory council shall consist of not more than seven 1167
individuals knowledgeable in the area of dietetics. ~~A~~ 1168

A majority of the council members shall be individuals 1169
licensed under this chapter who are actively engaged in the 1170
practice of dietetics ~~who meet the requirements for licensure~~ 1171
~~under section 4759.06 of the Revised Code.~~ The board shall 1172
include both of the following on the council ~~one~~ : 1173

(1) One educator with a doctoral degree who holds a 1174
regular faculty appointment in a program that prepares students 1175
to meet the requirements of division (A) ~~(5)~~ (4) of section 1176
4759.06 of the Revised Code ~~and one member~~ ; 1177

(2) One individual who is not affiliated with any health 1178
care profession, who shall be appointed to represent the 1179
interest of consumers. 1180

The Ohio academy of nutrition and dietetics, or its 1181
successor organization, may nominate ~~the names of up to not more~~ 1182
than three qualified individuals for consideration by the board 1183
in ~~making appointments for each vacancy on~~ appointing any member 1184
of the council. 1185

(B) Not later than ninety days after ~~the effective date of~~ 1186
~~this section~~ January 21, 2018, the board shall make initial 1187
appointments to the council. ~~Members~~ Initial members shall serve 1188
~~three-year staggered~~ terms of office ~~in accordance with rules~~ 1189
~~adopted of one, two, or three years, as selected~~ by the board. 1190

Thereafter, terms of office shall be for three years, with each 1191
term ending on the same day of the same month as did the term 1192
that it succeeds. A council member shall continue in office 1193
subsequent to the expiration date of the member's term until a 1194
successor is appointed and takes office, or until a period of 1195
sixty days has elapsed, whichever occurs first. Each council 1196
member shall hold office from the date of appointment until the 1197
end of the term for which the member was appointed. 1198

(C) ~~With approval from the director of administrative~~ 1199
~~services, members may receive an amount fixed under division (J)~~ 1200
~~of section 124.15 of the Revised Code for each day the member is~~ 1201
~~performing the member's official duties and~~ Members shall serve 1202
without compensation, but shall be reimbursed for actual and 1203
necessary expenses incurred in performing ~~those~~ their official 1204
duties. 1205

(D) The council shall meet at least four times ~~per each~~ 1206
year and at such other times as may be necessary to carry out 1207
its responsibilities. 1208

(E) The council ~~shall~~ may submit to the board 1209
recommendations concerning all of the following: 1210

(1) Requirements for issuing a license to practice as a 1211
~~dietician-dietitian~~ or as a limited permit holder, including the 1212
educational and experience requirements that must be met to 1213
receive the license or ~~limited~~ permit; 1214

(2) Existing and proposed rules pertaining to the practice 1215
of dietetics and the administration and enforcement of this 1216
chapter; 1217

(3) Standards for the approval of educational programs 1218
required to qualify for licensure and continuing education 1219

programs for licensure renewal;	1220
(4) Procedures for <u>Policies related to</u> the issuance and renewal of licenses and limited permits;	1221 1222
(5) Fees for the issuance and renewal of a license to practice dietetics as a licensee or as a limited permit holder;	1223 1224
(6) Standards of practice and ethical conduct in the practice of dietetics;	1225 1226
(7) Complaints concerning alleged violation of sections 4759.02 to 4759.10 of the Revised Code or grounds for the suspension, revocation, refusal to issue, or issuance of probationary licenses or limited permits;	1227 1228 1229 1230
(8) <u>The safe and effective practice of dietetics,</u> <u>including scope of practice and minimal standards of care.</u>	1231 1232
Sec. 4759.06. (A) The state medical board shall issue or renew a license to practice dietetics to an applicant who <u>meets</u> <u>all of the following requirements:</u>	1233 1234 1235
(1) Has satisfactorily completed an application for licensure in accordance with <u>rules adopted under</u> division (A) of section 4759.05 of the Revised Code;	1236 1237 1238
(2) Has paid the fee required under division (A) of section 4759.08 of the Revised Code;	1239 1240
(3) Is a resident of the state or performs or plans to perform dietetic services within the state;	1241 1242
(4) Is of good moral character;	1243
(5) <u>(4)</u> Has received a baccalaureate or higher degree from an institution of higher education that is approved by the board or a regional accreditation agency that is recognized by the	1244 1245 1246

council on postsecondary accreditation, and has completed a 1247
program consistent with the academic standards for dietitians 1248
established by the academy of nutrition and dietetics; 1249

~~(6)~~ (5) Has successfully completed a pre-professional 1250
dietetic experience approved by the academy of nutrition and 1251
dietetics, or experience approved by the board under division 1252
(A) (3) of section 4759.05 of the Revised Code; 1253

~~(7)~~ (6) Has passed the examination approved by the board 1254
under division (A) (1) of section 4759.05 of the Revised Code; 1255

~~(8) Is an applicant for renewal of a license, and has
fulfilled the continuing education requirements adopted under
division (A) (6) of section 4759.05 of the Revised Code.~~ 1256
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(B) The board shall waive the requirements of divisions 1259
(A) (4), (5), and (6), ~~and (7)~~ of this section and any rules 1260
adopted under division (A) ~~(7)~~ (6) of section 4759.05 of the 1261
Revised Code if the applicant presents satisfactory evidence to 1262
the board of current registration as a registered dietitian with 1263
the commission on dietetic registration. 1264

~~(C) The board shall waive the requirements of division (A)
(7) of this section if the application for renewal is made
within two years after the date of license expiration.~~ 1265
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~~(D) The board may waive the requirements of division (A)
(5), (6), or (7) of this section or any rules adopted under
division (A) (7) of section 4759.05 of the Revised Code, if the
applicant presents satisfactory evidence of education,
experience, or passing an examination in another state or a
foreign country, that the board considers the equivalent of the
requirements stated in those divisions or rules.~~ 1268
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~~(E)~~ (1) The board shall issue an initial a license to 1275

practice dietetics to an applicant who meets the requirements of 1276
division (A) of this section. ~~An initial A license issued before~~ 1277
~~July 1, 2018, shall be valid from the date of issuance through~~ 1278
~~the thirtieth day of expire on June following issuance of the~~ 1279
~~license. Each subsequent license shall be valid from the first~~ 1280
~~day of July through the thirtieth day of June 30, 2018. The A~~ 1281
~~license issued on or after July 1, 2018, shall expire on the~~ 1282
~~thirtieth day of June of the next even-numbered year after~~ 1283
~~issuance. A license may be renewed.~~ 1284

(2) ~~The board shall renew the an applicant's license of an~~ 1285
~~applicant who is licensed to practice dietetics and who if the~~ 1286
~~applicant meets the continuing education requirements of adopted~~ 1287
~~under division (A) (6) (5) of section 4759.05 of the Revised Code~~ 1288
~~and has paid the license renewal fee specified in section~~ 1289
~~4759.08 of the Revised Code. The renewal shall be pursuant to~~ 1290
~~the standard renewal procedure of sections 4745.01 to 4745.03 of~~ 1291
~~the Revised Code.~~ 1292

~~(F) At least one month before a license expires, the board~~ 1293
~~shall provide a renewal notice. Failure of any person to receive~~ 1294
~~a notice of renewal from the board shall not excuse the person~~ 1295
~~from the requirements contained in this section. Each person~~ 1296
~~holding a license shall give notice to the board of a change in~~ 1297
~~the license holder's residence address, business address, or~~ 1298
~~electronic mail address not later than thirty days after the~~ 1299
~~change occurs.~~ 1300

(D) ~~Any person licensed to practice dietetics by the~~ 1301
~~former Ohio board of dietetics before January 21, 2018, may~~ 1302
~~continue to practice dietetics in this state under that license~~ 1303
~~if the person continues to meet the requirements to renew a~~ 1304
~~license under this chapter and renews the license through the~~ 1305

state medical board. 1306

The state medical board may take any of the following 1307
actions, as provided in section 4759.07 of the Revised Code, 1308
against the holder of a license to practice dietetics issued 1309
before January 21, 2018, by the former Ohio board of dietetics: 1310

(1) Limit, revoke, or suspend the holder's license; 1311

(2) Refuse to renew or reinstate the holder's license; 1312

(3) Reprimand the holder or place the holder on probation. 1313

(E) (1) The board may grant a limited permit to a person 1314
who has completed the education and pre-professional 1315
requirements of divisions (A) ~~(5)~~ (4) and ~~(6)~~ (5) of this section 1316
and who presents evidence to the board of having applied to take 1317
the examination approved by the board under division (A) (1) of 1318
section 4759.05 of the Revised Code. ~~A~~ An application for a 1319
limited permit shall be made on forms that the board shall 1320
furnish and shall be accompanied by the limited permit fee 1321
specified in section 4759.08 of the Revised Code. 1322

(2) If no grounds apply under section 4759.07 of the 1323
Revised Code for denying a license to the applicant and the 1324
applicant meets the requirements of division (E) (1) of this 1325
section, the board shall issue a limited permit to the 1326
applicant. 1327

A limited permit expires in accordance with rules adopted 1328
under section 4759.05 of the Revised Code. A limited permit may 1329
be renewed in accordance with those rules. 1330

(3) The board shall maintain a register of all persons 1331
holding limited permits under this chapter. 1332

(4) A person holding a limited permit who has failed the 1333

examination shall practice only under the direct supervision of 1334
a licensed dietitian. 1335

~~(G) A licensed dietitian may place the license in inactive 1336
status. 1337~~

(5) The board may revoke a limited permit on proof 1338
satisfactory to the board that the permit holder has engaged in 1339
practice in this state outside the scope of the permit, that the 1340
holder has engaged in unethical conduct, or that grounds for 1341
action against the holder exist under section 4759.07 of the 1342
Revised Code. 1343

Sec. 4759.062. (A) A license to practice dietetics that is 1344
not renewed on or before its expiration date is automatically 1345
suspended on its expiration date. Continued practice after 1346
suspension shall be considered as practicing in violation of 1347
section 4759.02 of the Revised Code. 1348

(B) If a license has been suspended pursuant to division 1349
(A) of this section for two years or less, it may be reinstated. 1350
The state medical board shall reinstate the license upon the 1351
applicant's submission of a complete renewal application and 1352
payment of a reinstatement fee of two hundred five dollars. 1353

(C) (1) If a license has been suspended pursuant to 1354
division (A) of this section for more than two years, it may be 1355
restored. The board may restore the license upon an applicant's 1356
submission of a complete restoration application and a 1357
restoration fee of two hundred thirty dollars and compliance 1358
with sections 4776.01 to 4776.04 of the Revised Code. The board 1359
shall not restore a license unless the board, in its discretion, 1360
decides that the results of the criminal records check do not 1361
make the applicant ineligible for a license issued pursuant to 1362

section 4759.06 of the Revised Code. 1363

(2) The board may impose terms and conditions for the 1364
restoration, including any one or more of the following: 1365

(a) Requiring the applicant to pass an oral or written 1366
examination, or both, to determine the applicant's present 1367
fitness to resume practice; 1368

(b) Requiring the applicant to obtain additional training 1369
and to pass an examination upon completion of such training; 1370

(c) Restricting or limiting the extent, scope, or type of 1371
practice of the applicant. 1372

Sec. 4759.07. (A) ~~The state medical board may, in~~ 1373
~~accordance with Chapter 119. of the Revised Code, refuse to~~ 1374
~~issue, review, or renew, or may suspend, revoke, or impose~~ 1375
~~probationary conditions upon any license or permit to practice~~ 1376
~~dietetics, if the applicant has, by an affirmative vote of not~~ 1377
fewer than six members, shall, to the extent permitted by law, 1378
limit, revoke, or suspend an individual's license or limited 1379
permit, refuse to issue a license or limited permit to an 1380
individual, refuse to renew a license or limited permit, refuse 1381
to reinstate a license or limited permit, or reprimand or place 1382
on probation the holder of a license or limited permit for one 1383
or more of the following reasons: 1384

~~(1) Violated sections 4759.02 to 4759.10 of the Revised~~ 1385
~~Code~~ Except when civil penalties are imposed under section 1386
4759.071 of the Revised Code, violating or attempting to 1387
violate, directly or indirectly, or assisting in or abetting the 1388
violation of, or conspiring to violate, any provision of this 1389
chapter or the rules adopted under those sections by the board; 1390

~~(2) Knowingly made~~ Making a false, fraudulent, deceptive, 1391

~~or misleading statement in an application for licensure or~~ 1392
~~license renewal, the solicitation of or advertising for patients;~~ 1393
~~in relation to the practice of dietetics; or in securing or~~ 1394
~~attempting to secure any license or permit issued by the board~~ 1395
~~under this chapter.~~ 1396

As used in division (A) (2) of this section, "false, 1397
fraudulent, deceptive, or misleading statement" means a 1398
statement that includes a misrepresentation of fact, is likely 1399
to mislead or deceive because of a failure to disclose material 1400
facts, is intended or is likely to create false or unjustified 1401
expectations of favorable results, or includes representations 1402
or implications that in reasonable probability will cause an 1403
ordinarily prudent person to misunderstand or be deceived. 1404

(3) Committing fraud during the administration of the 1405
examination for a license to practice or committing fraud, 1406
misrepresentation, or deception in applying for, renewing, or 1407
securing any license or permit issued by the board; 1408

~~(3) Been convicted of any crime constituting a felony in~~ 1409
~~this or any other state;~~ 1410

~~(4) Been impaired in ability to perform as a licensed~~ 1411
~~dietitian due to the use of a controlled substance or alcoholic~~ 1412
~~beverage;~~ 1413

~~(5) Been convicted of a misdemeanor committed in the~~ 1414
~~course of work as a dietitian in this or any other state;~~ 1415

~~(6) A plea of guilty to, a judicial finding of guilt of,~~ 1416
~~or a judicial finding of eligibility for intervention in lieu of~~ 1417
~~conviction for, a felony;~~ 1418

(5) Commission of an act that constitutes a felony in this 1419
state, regardless of the jurisdiction in which the act was 1420

<u>committed;</u>	1421
<u>(6) A plea of guilty to, a judicial finding of guilt of,</u>	1422
<u>or a judicial finding of eligibility for intervention in lieu of</u>	1423
<u>conviction for, a misdemeanor committed in the course of</u>	1424
<u>practice;</u>	1425
<u>(7) Commission of an act in the course of practice that</u>	1426
<u>constitutes a misdemeanor in this state, regardless of the</u>	1427
<u>jurisdiction in which the act was committed;</u>	1428
<u>(8) A plea of guilty to, a judicial finding of guilt of,</u>	1429
<u>or a judicial finding of eligibility for intervention in lieu of</u>	1430
<u>conviction for, a misdemeanor involving moral turpitude;</u>	1431
<u>(9) Commission of an act involving moral turpitude that</u>	1432
<u>constitutes a misdemeanor in this state, regardless of the</u>	1433
<u>jurisdiction in which the act was committed;</u>	1434
<u>(10) A record of <u>engaging in</u> incompetent or negligent</u>	1435
<u>conduct in the practice of dietetics.—</u>	1436
(B) For purposes of this division, any individual who	1437
holds a license or permit issued under this chapter, or applies	1438
for a license or permit to practice dietetics, is deemed to have	1439
given consent to submit to a mental or physical examination when	1440
directed to do so in writing by the board and to have waived all	1441
objections to the admissibility of testimony or examination	1442
reports that constitute a privileged communication.—	1443
For purposes of division (A)(4) of this section, if the	1444
board has reason to believe that any individual who holds a	1445
license or permit issued under this chapter or any applicant for	1446
a license or permit suffers such impairment, the board may	1447
compel the individual to submit to a mental or physical	1448
examination, or both. The expense of the examination is the	1449

~~responsibility of the individual compelled to be examined. Any 1450
mental or physical examination required under this division 1451
shall be undertaken by a treatment provider or physician 1452
qualified to conduct such examination and chosen by the board. 1453~~

~~Failure to submit to a mental or physical examination 1454
ordered by the board constitutes an admission of the allegations 1455
against the individual unless the failure is due to 1456
circumstances beyond the individual's control, and a default and 1457
final order may be entered without the taking of testimony or 1458
presentation of evidence. If the board determines that the 1459
individual's ability to practice is impaired, the board shall 1460
suspend the individual's license or permit or deny the 1461
individual's application and shall require the individual, as a 1462
condition for initial, continued, reinstated, or renewed 1463
licensure, to submit to treatment. 1464~~

~~Before being eligible to apply for reinstatement of a 1465
license or permit suspended under this division, the dietitian 1466
shall demonstrate to the board the ability to resume practice in 1467
compliance with acceptable and prevailing standards of care. The 1468
demonstration shall include the following: 1469~~

~~(1) Certification from a treatment provider approved under 1470
section 4731.25 of the Revised Code that the individual has 1471
successfully completed any required inpatient treatment; 1472~~

~~(2) Evidence of continuing full compliance with an 1473
aftercare contract or consent agreement; 1474~~

~~(3) Two written reports indicating that the individual's 1475
ability to practice has been assessed and that the individual 1476
has been found capable of practicing according to acceptable and 1477
prevailing standards of care. The reports shall be made by 1478~~

~~individuals or providers approved by the board for making such assessments and shall describe the basis for their determination.~~ 1479
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~~The board may reinstate a license or permit suspended under this division after such demonstration and after the individual has entered into a written consent agreement.~~ 1482
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~~When the impaired dietitian resumes practice, the board shall require continued monitoring of the dietitian. The monitoring shall include compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of falsification stating whether the dietitian has maintained sobriety.~~ 1485
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~~(C) One year or more after the date of suspension or revocation of a license or permit under division (A) (1), (2), (3), (5), or (6) of this section, an application for reinstatement of the license or permit may be made to the board. The board shall grant or deny reinstatement with a hearing, at the request of the applicant, in accordance with Chapter 119. of the Revised Code and may impose conditions upon the reinstatement, including the requirement of passing an examination approved by the board;~~ 1494
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(11) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established; 1503
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(12) The obtaining of, or attempting to obtain, money or 1507

<u>anything of value by fraudulent misrepresentations in the course</u>	1508
<u>of practice;</u>	1509
<u>(13) Violation of the conditions of limitation placed by</u>	1510
<u>the board on a license or permit;</u>	1511
<u>(14) Inability to practice according to acceptable and</u>	1512
<u>prevailing standards of care by reason of mental illness or</u>	1513
<u>physical illness, including, physical deterioration that</u>	1514
<u>adversely affects cognitive, motor, or perceptive skills;</u>	1515
<u>(15) Any of the following actions taken by an agency</u>	1516
<u>responsible for authorizing, certifying, or regulating an</u>	1517
<u>individual to practice a health care occupation or provide</u>	1518
<u>health care services in this state or another jurisdiction, for</u>	1519
<u>any reason other than the nonpayment of fees: the limitation,</u>	1520
<u>revocation, or suspension of an individual's license; acceptance</u>	1521
<u>of an individual's license surrender; denial of a license;</u>	1522
<u>refusal to renew or reinstate a license; imposition of</u>	1523
<u>probation; or issuance of an order of censure or other</u>	1524
<u>reprimand;</u>	1525
<u>(16) The revocation, suspension, restriction, reduction,</u>	1526
<u>or termination of practice privileges by the United States</u>	1527
<u>department of defense or department of veterans affairs;</u>	1528
<u>(17) Termination or suspension from participation in the</u>	1529
<u>medicare or medicaid programs by the department of health and</u>	1530
<u>human services or other responsible agency for any act or acts</u>	1531
<u>that also would constitute a violation of division (A) (11),</u>	1532
<u>(12), or (14) of this section;</u>	1533
<u>(18) Impairment of ability to practice according to</u>	1534
<u>acceptable and prevailing standards of care because of habitual</u>	1535
<u>or excessive use or abuse of drugs, alcohol, or other substances</u>	1536

that impair ability to practice; 1537

(19) Failure to cooperate in an investigation conducted by 1538
the board under division (B) of section 4759.05 of the Revised 1539
Code, including failure to comply with a subpoena or order 1540
issued by the board or failure to answer truthfully a question 1541
presented by the board in an investigative interview, an 1542
investigative office conference, at a deposition, or in written 1543
interrogatories, except that failure to cooperate with an 1544
investigation shall not constitute grounds for discipline under 1545
this section if a court of competent jurisdiction has issued an 1546
order that either quashes a subpoena or permits the individual 1547
to withhold the testimony or evidence in issue; 1548

(20) Representing with the purpose of obtaining 1549
compensation or other advantage as personal gain or for any 1550
other person, that an incurable disease or injury, or other 1551
incurable condition, can be permanently cured. 1552

(B) Any action taken by the board under division (A) of 1553
this section resulting in a suspension from practice shall be 1554
accompanied by a written statement of the conditions under which 1555
the individual's license or permit may be reinstated. The board 1556
shall adopt rules governing conditions to be imposed for 1557
reinstatement. Reinstatement of a license or permit suspended 1558
pursuant to division (A) of this section requires an affirmative 1559
vote of not fewer than six members of the board. 1560

(C) When the board refuses to grant or issue a license or 1561
permit to an applicant, revokes an individual's license or 1562
permit, refuses to renew an individual's license or permit, or 1563
refuses to reinstate an individual's license or permit, the 1564
board may specify that its action is permanent. An individual 1565
subject to a permanent action taken by the board is forever 1566

thereafter ineligible to hold a license or permit and the board 1567
shall not accept an application for reinstatement of the license 1568
or permit or for issuance of a new license or permit. 1569

(D) Disciplinary actions taken by the board under division 1570
(A) of this section shall be taken pursuant to an adjudication 1571
under Chapter 119. of the Revised Code, except that in lieu of 1572
an adjudication, the board may enter into a consent agreement 1573
with an individual to resolve an allegation of a violation of 1574
this chapter or any rule adopted under it. A consent agreement, 1575
when ratified by an affirmative vote of not fewer than six 1576
members of the board, shall constitute the findings and order of 1577
the board with respect to the matter addressed in the agreement. 1578
If the board refuses to ratify a consent agreement, the 1579
admissions and findings contained in the consent agreement shall 1580
be of no force or effect. 1581

A telephone conference call may be utilized for 1582
ratification of a consent agreement that revokes or suspends an 1583
individual's license or permit. The telephone conference call 1584
shall be considered a special meeting under division (F) of 1585
section 121.22 of the Revised Code. 1586

(E) In enforcing division (A) (14) of this section, the 1587
board, upon a showing of a possible violation, may compel any 1588
individual authorized to practice by this chapter or who has 1589
submitted an application pursuant to this chapter to submit to a 1590
mental examination, physical examination, including an HIV test, 1591
or both a mental and a physical examination. The expense of the 1592
examination is the responsibility of the individual compelled to 1593
be examined. Failure to submit to a mental or physical 1594
examination or consent to an HIV test ordered by the board 1595
constitutes an admission of the allegations against the 1596

individual unless the failure is due to circumstances beyond the 1597
individual's control, and a default and final order may be 1598
entered without the taking of testimony or presentation of 1599
evidence. If the board finds an individual unable to practice 1600
because of the reasons set forth in division (A)(14) of this 1601
section, the board shall require the individual to submit to 1602
care, counseling, or treatment by physicians approved or 1603
designated by the board, as a condition for initial, continued, 1604
reinstated, or renewed authority to practice. An individual 1605
affected under this division shall be afforded an opportunity to 1606
demonstrate to the board the ability to resume practice in 1607
compliance with acceptable and prevailing standards under the 1608
provisions of the individual's license or permit. For the 1609
purpose of division (A)(14) of this section, any individual who 1610
applies for or receives a license or permit under this chapter 1611
accepts the privilege of practicing in this state and, by so 1612
doing, shall be deemed to have given consent to submit to a 1613
mental or physical examination when directed to do so in writing 1614
by the board, and to have waived all objections to the 1615
admissibility of testimony or examination reports that 1616
constitute a privileged communication. 1617

(F) For the purposes of division (A)(18) of this section, 1618
any individual authorized to practice by this chapter accepts 1619
the privilege of practicing in this state subject to supervision 1620
by the board. By filing an application for or holding a license 1621
or permit under this chapter, an individual shall be deemed to 1622
have given consent to submit to a mental or physical examination 1623
when ordered to do so by the board in writing, and to have 1624
waived all objections to the admissibility of testimony or 1625
examination reports that constitute privileged communications. 1626

If it has reason to believe that any individual authorized 1627

to practice by this chapter or any applicant for a license or 1628
permit suffers such impairment, the board may compel the 1629
individual to submit to a mental or physical examination, or 1630
both. The expense of the examination is the responsibility of 1631
the individual compelled to be examined. Any mental or physical 1632
examination required under this division shall be undertaken by 1633
a treatment provider or physician who is qualified to conduct 1634
the examination and who is chosen by the board. 1635

Failure to submit to a mental or physical examination 1636
ordered by the board constitutes an admission of the allegations 1637
against the individual unless the failure is due to 1638
circumstances beyond the individual's control, and a default and 1639
final order may be entered without the taking of testimony or 1640
presentation of evidence. If the board determines that the 1641
individual's ability to practice is impaired, the board shall 1642
suspend the individual's license or permit or deny the 1643
individual's application and shall require the individual, as a 1644
condition for an initial, continued, reinstated, or renewed 1645
license or permit, to submit to treatment. 1646

Before being eligible to apply for reinstatement of a 1647
license or permit suspended under this division, the impaired 1648
practitioner shall demonstrate to the board the ability to 1649
resume practice in compliance with acceptable and prevailing 1650
standards of care under the provisions of the practitioner's 1651
license or permit. The demonstration shall include, but shall 1652
not be limited to, the following: 1653

(1) Certification from a treatment provider approved under 1654
section 4731.25 of the Revised Code that the individual has 1655
successfully completed any required inpatient treatment; 1656

(2) Evidence of continuing full compliance with an 1657

aftercare contract or consent agreement; 1658

(3) Two written reports indicating that the individual's 1659
ability to practice has been assessed and that the individual 1660
has been found capable of practicing according to acceptable and 1661
prevailing standards of care. The reports shall be made by 1662
individuals or providers approved by the board for making the 1663
assessments and shall describe the basis for their 1664
determination. 1665

The board may reinstate a license or permit suspended 1666
under this division after that demonstration and after the 1667
individual has entered into a written consent agreement. 1668

When the impaired practitioner resumes practice, the board 1669
shall require continued monitoring of the individual. The 1670
monitoring shall include, but not be limited to, compliance with 1671
the written consent agreement entered into before reinstatement 1672
or with conditions imposed by board order after a hearing, and, 1673
upon termination of the consent agreement, submission to the 1674
board for at least two years of annual written progress reports 1675
made under penalty of perjury stating whether the individual has 1676
maintained sobriety. 1677

(G) If the secretary and supervising member determine both 1678
of the following, they may recommend that the board suspend an 1679
individual's license or permit without a prior hearing: 1680

(1) That there is clear and convincing evidence that an 1681
individual has violated division (A) of this section; 1682

(2) That the individual's continued practice presents a 1683
danger of immediate and serious harm to the public. 1684

Written allegations shall be prepared for consideration by 1685
the board. The board, upon review of those allegations and by an 1686

affirmative vote of not fewer than six of its members, excluding 1687
the secretary and supervising member, may suspend a license or 1688
permit without a prior hearing. A telephone conference call may 1689
be utilized for reviewing the allegations and taking the vote on 1690
the summary suspension. 1691

The board shall issue a written order of suspension by 1692
certified mail or in person in accordance with section 119.07 of 1693
the Revised Code. The order shall not be subject to suspension 1694
by the court during pendency of any appeal filed under section 1695
119.12 of the Revised Code. If the individual subject to the 1696
summary suspension requests an adjudicatory hearing by the 1697
board, the date set for the hearing shall be within fifteen 1698
days, but not earlier than seven days, after the individual 1699
requests the hearing, unless otherwise agreed to by both the 1700
board and the individual. 1701

Any summary suspension imposed under this division shall 1702
remain in effect, unless reversed on appeal, until a final 1703
adjudicative order issued by the board pursuant to this section 1704
and Chapter 119. of the Revised Code becomes effective. The 1705
board shall issue its final adjudicative order within seventy- 1706
five days after completion of its hearing. A failure to issue 1707
the order within seventy-five days shall result in dissolution 1708
of the summary suspension order but shall not invalidate any 1709
subsequent, final adjudicative order. 1710

(H) If the board is required by Chapter 119. of the 1711
Revised Code to give notice of an opportunity for a hearing and 1712
if the individual subject to the notice does not timely request 1713
a hearing in accordance with section 119.07 of the Revised Code, 1714
the board is not required to hold a hearing, but may adopt, by 1715
an affirmative vote of not fewer than six of its members, a 1716

final order that contains the board's findings. In the final 1717
order, the board may order any of the sanctions identified under 1718
division (A) of this section. 1719

(I) For purposes of divisions (A)(5), (7), and (9) of this 1720
section, the commission of the act may be established by a 1721
finding by the board, pursuant to an adjudication under Chapter 1722
119. of the Revised Code, that the individual committed the act. 1723
The board does not have jurisdiction under those divisions if 1724
the trial court renders a final judgment in the individual's 1725
favor and that judgment is based upon an adjudication on the 1726
merits. The board has jurisdiction under those divisions if the 1727
trial court issues an order of dismissal upon technical or 1728
procedural grounds. 1729

(J) The sealing of conviction records by any court shall 1730
have no effect upon a prior board order entered under this 1731
section or upon the board's jurisdiction to take action under 1732
this section if, based upon a plea of guilty, a judicial finding 1733
of guilt, or a judicial finding of eligibility for intervention 1734
in lieu of conviction, the board issued a notice of opportunity 1735
for a hearing prior to the court's order to seal the records. 1736
The board shall not be required to seal, destroy, redact, or 1737
otherwise modify its records to reflect the court's sealing of 1738
conviction records. 1739

(K) If the board takes action under division (A)(4), (6), 1740
or (8) of this section, and the judicial finding of guilt, 1741
guilty plea, or judicial finding of eligibility for intervention 1742
in lieu of conviction is overturned on appeal, upon exhaustion 1743
of the criminal appeal, a petition for reconsideration of the 1744
order may be filed with the board along with appropriate court 1745
documents. Upon receipt of a petition for reconsideration and 1746

supporting court documents, the board shall reinstate the 1747
individual's license or permit. The board may then hold an 1748
adjudication under Chapter 119. of the Revised Code to determine 1749
whether the individual committed the act in question. Notice of 1750
an opportunity for a hearing shall be given in accordance with 1751
Chapter 119. of the Revised Code. If the board finds, pursuant 1752
to an adjudication held under this division, that the individual 1753
committed the act or if no hearing is requested, the board may 1754
order any of the sanctions identified under division (A) of this 1755
section. 1756

(L) The license or permit issued to an individual under 1757
this chapter and the individual's practice in this state are 1758
automatically suspended as of the date the individual pleads 1759
guilty to, is found by a judge or jury to be guilty of, or is 1760
subject to a judicial finding of eligibility for intervention in 1761
lieu of conviction in this state or treatment or intervention in 1762
lieu of conviction in another jurisdiction for any of the 1763
following criminal offenses in this state or a substantially 1764
equivalent criminal offense in another jurisdiction: aggravated 1765
murder, murder, voluntary manslaughter, felonious assault, 1766
kidnapping, rape, sexual battery, gross sexual imposition, 1767
aggravated arson, aggravated robbery, or aggravated burglary. 1768
Continued practice after suspension shall be considered 1769
practicing without a license or permit. 1770

The board shall notify the individual subject to the 1771
suspension by certified mail or in person in accordance with 1772
section 119.07 of the Revised Code. If an individual whose 1773
license or permit is automatically suspended under this division 1774
fails to make a timely request for an adjudication under Chapter 1775
119. of the Revised Code, the board shall enter a final order 1776
permanently revoking the individual's license or permit. 1777

(M) Notwithstanding any other provision of the Revised Code, all of the following apply: 1778
1779

(1) The surrender of a license or permit issued under this chapter shall not be effective unless or until accepted by the board. A telephone conference call may be utilized for acceptance of the surrender of an individual's license or permit. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code. Reinstatement of a license or permit surrendered to the board requires an affirmative vote of not fewer than six members of the board. 1780
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(2) An application for a license or permit made under the provisions of this chapter may not be withdrawn without approval of the board. 1789
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(3) Failure by an individual to renew a license or permit in accordance with this chapter shall not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual. 1792
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(4) At the request of the board, a license or permit holder shall immediately surrender to the board a license or permit that the board has suspended, revoked, or permanently revoked. 1796
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Sec. 4759.071. (A) (1) If the holder of a license or limited permit issued under this chapter violates any section of this chapter, other than the continuing education requirements adopted under division (A) (5) of section 4759.05 of the Revised Code, or violates any rule adopted under this chapter, the state medical board may, pursuant to an adjudication under Chapter 119. of the Revised Code and an affirmative vote of not fewer 1800
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than six of its members, impose a civil penalty. The amount of 1807
the civil penalty shall be determined by the board in accordance 1808
with the guidelines adopted under division (A)(2) of this 1809
section. The civil penalty may be in addition to any other 1810
action the board may take under section 4759.07 of the Revised 1811
Code. 1812

(2) The board shall adopt and may amend guidelines 1813
regarding the amounts of civil penalties to be imposed under 1814
this section. Adoption or amendment of the guidelines requires 1815
the approval of not fewer than six board members. Under the 1816
guidelines, no civil penalty amount shall exceed twenty thousand 1817
dollars. 1818

(B) Amounts received from payment of civil penalties 1819
imposed under this section shall be deposited by the board in 1820
accordance with section 4731.24 of the Revised Code. Amounts 1821
received from payment of civil penalties imposed for violations 1822
of division (A)(18) of section 4759.07 of the Revised Code shall 1823
be used by the board solely for investigations, enforcement, and 1824
compliance monitoring. 1825

Sec. 4759.08. (A) The state medical board shall charge and 1826
collect fees as described in this section for issuing the 1827
following: 1828

(1) An application for an initial dietitian license, ~~or an~~ 1829
~~application for reactivation of an inactive license, one hundred~~ 1830
~~twenty five dollars, and for reinstatement of a lapsed, revoked,~~ 1831
~~or suspended license, one two hundred eighty twenty-five~~ 1832
dollars; 1833

(2) License renewal, ~~ninety five~~ one hundred eighty 1834
dollars; 1835

(3) A limited permit, ~~and or~~ renewal of the permit, sixty-five dollars; 1836
1837

(4) A duplicate license or permit, ~~twenty thirty-five~~ dollars; 1838
1839

~~(5) For processing a late application for renewal of any license or permit, an additional fee equal to fifty per cent of the fee for the renewal. In the case of a person holding a license issued under this chapter, a license verification fee of fifty dollars.~~ 1840
1841
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~~(B) The board shall not require a licensed dietitian holding an inactive license to pay the renewal fee.~~ 1845
1846

~~(C) Subject to the approval of the controlling board, the state medical board may establish fees in excess of the amounts provided in division (A) of this section, provided that the fees do not exceed the amounts by greater than fifty per cent.~~ 1847
1848
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~~(D) The board may adopt rules pursuant to Chapter 119. of the Revised Code to waive all or part of the fee for an initial license if the license is issued within one hundred days of the date of expiration of the license.~~ 1851
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~~(E) All receipts of the board shall be deposited in the state treasury to the credit of the state medical board operating fund in accordance with section 4731.24 of the Revised Code.~~ 1855
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Sec. 4759.10. Sections 4759.01 to ~~4759.09~~ 4759.08 of the Revised Code do not apply to any of the following: 1859
1860

(A) A person licensed under ~~Chapters 4701. to 4755.~~ Title XLVII of the Revised Code who is acting within the scope of the person's profession, provided that the person complies with 1861
1862
1863

division (B) of section 4759.02 of the Revised Code; 1864

(B) A person who is a graduate of an associate degree 1865
program approved by the academy of nutrition and dietetics or 1866
the state medical board who is working as a dietetic technician 1867
under the supervision of a dietitian licensed under section 1868
4759.06 of the Revised Code or registered by the commission on 1869
dietetic registration, except that the person is subject to 1870
division (B) of section 4759.02 of the Revised Code if the 1871
person uses a title other than "dietetic technician"; 1872

(C) A person who practices dietetics related to employment 1873
in the armed forces, veteran's administration, or the public 1874
health service of the United States; 1875

(D) Persons employed by a nonprofit agency approved by the 1876
board or by a federal, state, municipal or county government, or 1877
by any other political subdivision, elementary or secondary 1878
school, or an institution of higher education approved by the 1879
state medical board or by a regional agency recognized by the 1880
council on postsecondary accreditation, who performs only 1881
nutritional education activities and such other nutritional 1882
activities as the ~~state medical~~ board, by rule, permits, 1883
provided the person does not violate division (B) of section 1884
4759.02 of the Revised Code; 1885

(E) A person who has completed a program meeting the 1886
academic standards set for dietitians by the academy of 1887
nutrition and dietetics, received a baccalaureate or higher 1888
degree from a school, college, or university approved by a 1889
regional accreditation agency recognized by the council on 1890
postsecondary accreditation, works under the supervision of a 1891
licensed dietitian or registered dietitian, and does not violate 1892
division (B) of section 4759.02 of the Revised Code; 1893

(F) A person when acting, under the direction and 1894
supervision of a person licensed under ~~Chapters 4701. to 4755.~~ 1895
Title XLVII of the Revised Code, in the execution of a plan of 1896
treatment authorized by the licensed person, provided the person 1897
complies with division (B) of section 4759.02 of the Revised 1898
Code; 1899

(G) The free dissemination of literature in the state; 1900

(H) Provided that the persons involved in the sale, 1901
promotion, or explanation of the sale of food, food materials, 1902
or dietary supplements do not violate division (B) of section 1903
4759.02 of the Revised Code, the sale of food, food materials, 1904
or dietary supplements and the marketing and distribution of 1905
food, food materials, or dietary supplements and the promotion 1906
or explanation of the use of food, food materials, or dietary 1907
supplements provided that the promotion or explanation does not 1908
violate Chapter 1345. of the Revised Code; 1909

(I) A person who offers dietary supplements for sale and 1910
who makes the following statements about the product if the 1911
statements are consistent with the dietary supplement's label or 1912
labeling: 1913

(1) Claim a benefit related to a classical nutrient 1914
deficiency disease and disclose the prevalence of the disease in 1915
the United States; 1916

(2) Describe the role of a nutrient or dietary ingredient 1917
intended to affect the structure or function of the human body; 1918

(3) Characterize the documented mechanism by which a 1919
nutrient or dietary ingredient acts to maintain the structure or 1920
function of the human body; 1921

(4) Describe general well-being from the consumption of a 1922

nutrient or dietary ingredient. 1923

(J) Provided that the persons involved in presenting a 1924
general program of instruction for weight control do not violate 1925
division (B) of section 4759.02 of the Revised Code, a general 1926
program of instruction for weight control approved in writing by 1927
a licensed dietitian, a physician licensed under Chapter 4731. 1928
of the Revised Code to practice medicine or surgery or 1929
osteopathic medicine or surgery, a person licensed in another 1930
state that the board considers to have substantially equivalent 1931
licensure requirements as this state, or a registered dietitian; 1932

(K) The continued practice of dietetics at a hospital by a 1933
person employed at that same hospital to practice dietetics for 1934
the twenty years immediately prior to July 1, 1987, so long as 1935
the person works under the supervision of a dietitian licensed 1936
under section 4759.06 of the Revised Code and does not violate 1937
division (B) of section 4759.02 of the Revised Code. This 1938
division does not apply to any person who has held a license 1939
issued under this chapter to practice dietetics. As used in this 1940
division, "hospital" has the same meaning as in section 3727.01 1941
of the Revised Code. 1942

Sec. 4759.13. A dietitian, professional association or 1943
society of dietitians, physician, or professional association or 1944
society of physicians that believes a violation of division (A) 1945
(18) of section 4759.07 of the Revised Code has occurred shall 1946
report the information upon which the belief is based to the 1947
monitoring organization conducting the program established by 1948
the state medical board under section 4731.251 of the Revised 1949
Code. If any such report is made to the board, it shall be 1950
referred to the monitoring organization unless the board is 1951
aware that the individual who is the subject of the report does 1952

not meet the program eligibility requirements of section 1953
4731.252 of the Revised Code. 1954

An individual or entity that reports to the board, reports 1955
to the monitoring organization described in section 4731.251 of 1956
the Revised Code, or refers an impaired dietitian to a treatment 1957
provider approved by the board under section 4731.25 of the 1958
Revised Code shall not be subject to suit for civil damages as a 1959
result of the report, referral, or provision of the information. 1960

In the absence of fraud or bad faith, a professional 1961
association or society of dietitians that sponsors a committee 1962
or program to provide peer assistance to a dietitian with 1963
substance abuse problems, a representative or agent of such a 1964
committee or program, a representative or agent of the 1965
monitoring organization described in section 4731.251 of the 1966
Revised Code, and a member of the state medical board shall not 1967
be held liable in damages to any person by reason of actions 1968
taken to refer a dietitian to a treatment provider approved 1969
under section 4731.25 of the Revised Code for examination or 1970
treatment. 1971

Sec. 4760.01. As used in this chapter: 1972

(A) "Ambulatory surgical facility" has the same meaning as 1973
in section 3702.30 of the Revised Code. 1974

(B) "Anesthesiologist assistant" means an individual who 1975
assists an anesthesiologist in developing and implementing 1976
anesthesia care plans for patients. 1977

(C) "Anesthesiologist" means a physician who has 1978
successfully completed an approved anesthesiology training 1979
program, as specified in the accreditation requirements that 1980
must be met to qualify as graduate medical education ~~under~~, as 1981

defined in section ~~4731.091~~ 4731.04 of the Revised Code. 1982

(D) "Hospital" has the same meaning as in section 3727.01 1983
of the Revised Code. 1984

(E) "Physician" means an individual authorized under 1985
Chapter 4731. of the Revised Code to practice medicine and 1986
surgery or osteopathic medicine and surgery. 1987

Sec. 4760.14. (A) The state medical board shall 1988
investigate evidence that appears to show that any person has 1989
violated this chapter or the rules adopted under it. Any person 1990
may report to the board in a signed writing any information the 1991
person has that appears to show a violation of any provision of 1992
this chapter or the rules adopted under it. In the absence of 1993
bad faith, a person who reports such information or testifies 1994
before the board in an adjudication conducted under Chapter 119. 1995
of the Revised Code shall not be liable for civil damages as a 1996
result of reporting the information or providing testimony. Each 1997
complaint or allegation of a violation received by the board 1998
shall be assigned a case number and be recorded by the board. 1999

(B) Investigations of alleged violations of this chapter 2000
or rules adopted under it shall be supervised by the supervising 2001
member elected by the board in accordance with section 4731.02 2002
of the Revised Code and by the secretary as provided in section 2003
4760.15 of the Revised Code. The board's president may designate 2004
another member of the board to supervise the investigation in 2005
place of the supervising member. A member of the board who 2006
supervises the investigation of a case shall not participate in 2007
further adjudication of the case. 2008

(C) In investigating a possible violation of this chapter 2009
or the rules adopted under it, the board may administer oaths, 2010

order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board. Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or the rules adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is an anesthesiologist assistant, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena shall receive the

same fees as a sheriff. Each witness who appears before the 2041
board in obedience to a subpoena shall receive the fees and 2042
mileage provided for under section 119.094 of the Revised Code. 2043

(D) All hearings and investigations of the board shall be 2044
considered civil actions for the purposes of section 2305.252 of 2045
the Revised Code. 2046

(E) Information received by the board pursuant to an 2047
investigation is confidential and not subject to discovery in 2048
any civil action. 2049

The board shall conduct all investigations and proceedings 2050
in a manner that protects the confidentiality of patients and 2051
persons who file complaints with the board. The board shall not 2052
make public the names or any other identifying information about 2053
patients or complainants unless proper consent is given. 2054

The board may share any information it receives pursuant 2055
to an investigation, including patient records and patient 2056
record information, with law enforcement agencies, other 2057
licensing boards, and other governmental agencies that are 2058
prosecuting, adjudicating, or investigating alleged violations 2059
of statutes or administrative rules. An agency or board that 2060
receives the information shall comply with the same requirements 2061
regarding confidentiality as those with which the state medical 2062
board must comply, notwithstanding any conflicting provision of 2063
the Revised Code or procedure of the agency or board that 2064
applies when it is dealing with other information in its 2065
possession. In a judicial proceeding, the information may be 2066
admitted into evidence only in accordance with the Rules of 2067
Evidence, but the court shall require that appropriate measures 2068
are taken to ensure that confidentiality is maintained with 2069
respect to any part of the information that contains names or 2070

other identifying information about patients or complainants 2071
whose confidentiality was protected by the state medical board 2072
when the information was in the board's possession. Measures to 2073
ensure confidentiality that may be taken by the court include 2074
sealing its records or deleting specific information from its 2075
records. 2076

(F) The state medical board shall develop requirements for 2077
and provide appropriate initial training and continuing 2078
education for investigators employed by the board to carry out 2079
its duties under this chapter. The training and continuing 2080
education may include enrollment in courses operated or approved 2081
by the Ohio peace officer training ~~council~~ commission that the 2082
board considers appropriate under conditions set forth in 2083
section 109.79 of the Revised Code. 2084

(G) On a quarterly basis, the board shall prepare a report 2085
that documents the disposition of all cases during the preceding 2086
three months. The report shall contain the following information 2087
for each case with which the board has completed its activities: 2088

(1) The case number assigned to the complaint or alleged 2089
violation; 2090

(2) The type of certificate to practice, if any, held by 2091
the individual against whom the complaint is directed; 2092

(3) A description of the allegations contained in the 2093
complaint; 2094

(4) The disposition of the case. 2095

The report shall state how many cases are still pending, 2096
and shall be prepared in a manner that protects the identity of 2097
each person involved in each case. The report is a public record 2098
for purposes of section 149.43 of the Revised Code. 2099

Sec. 4760.16. (A) Within sixty days after the imposition 2100
of any formal disciplinary action taken by any health care 2101
facility, including a hospital, health care facility operated by 2102
an insuring corporation, ambulatory surgical facility, or 2103
similar facility, against any individual holding a valid 2104
certificate to practice as an anesthesiologist assistant, the 2105
chief administrator or executive officer of the facility shall 2106
report to the state medical board the name of the individual, 2107
the action taken by the facility, and a summary of the 2108
underlying facts leading to the action taken. On request, the 2109
board shall be provided certified copies of the patient records 2110
that were the basis for the facility's action. Prior to release 2111
to the board, the summary shall be approved by the peer review 2112
committee that reviewed the case or by the governing board of 2113
the facility. 2114

The filing of a report with the board or decision not to 2115
file a report, investigation by the board, or any disciplinary 2116
action taken by the board, does not preclude a health care 2117
facility from taking disciplinary action against an 2118
anesthesiologist assistant. 2119

In the absence of fraud or bad faith, no individual or 2120
entity that provides patient records to the board shall be 2121
liable in damages to any person as a result of providing the 2122
records. 2123

~~(B) An~~ (1) Except as provided in division (B) (2) of this 2124
section, an anesthesiologist assistant, professional association 2125
or society of anesthesiologist assistants, physician, or 2126
professional association or society of physicians that believes 2127
a violation of any provision of this chapter, Chapter 4731. of 2128
the Revised Code, or rule of the board has occurred shall report 2129

to the board the information on which the belief is based. ~~This~~ 2130
~~division does not require any treatment provider approved by the~~ 2131
~~board under section 4731.25 of the Revised Code or any employee,~~ 2132
~~agent, or representative of such a provider to make reports with~~ 2133
~~respect to an anesthesiologist assistant participating in~~ 2134
~~treatment or aftercare for substance abuse as long as the~~ 2135
~~anesthesiologist assistant maintains participation in accordance~~ 2136
~~with the requirements of section 4731.25 of the Revised Code and~~ 2137
~~the treatment provider or employee, agent, or representative of~~ 2138
~~the provider has no reason to believe that the anesthesiologist~~ 2139
~~assistant has violated any provision of this chapter or rule~~ 2140
~~adopted under it, other than being impaired by alcohol, drugs,~~ 2141
~~or other substances. This division does not require reporting by~~ 2142
~~any member of an impaired practitioner committee established by~~ 2143
~~a health care facility or by any representative or agent of a~~ 2144
~~committee or program sponsored by a professional association or~~ 2145
~~society of anesthesiologist assistants to provide peer~~ 2146
~~assistance to anesthesiologist assistants with substance abuse~~ 2147
~~problems with respect to an anesthesiologist assistant who has~~ 2148
~~been referred for examination to a treatment program approved by~~ 2149
~~the board under section 4731.25 of the Revised Code if the~~ 2150
~~anesthesiologist assistant cooperates with the referral for~~ 2151
~~examination and with any determination that the anesthesiologist~~ 2152
~~assistant should enter treatment and as long as the committee~~ 2153
~~member, representative, or agent has no reason to believe that~~ 2154
~~the anesthesiologist assistant has ceased to participate in the~~ 2155
~~treatment program in accordance with section 4731.25 of the~~ 2156
~~Revised Code or has violated any provision of this chapter or~~ 2157
~~rule adopted under it, other than being impaired by alcohol,~~ 2158
~~drugs, or other substances.~~ 2159

(2) An anesthesiologist assistant, professional 2160

association or society of anesthesiologist assistants, 2161
physician, or professional association or society of physicians 2162
that believes that a violation of division (B) (6) of section 2163
4760.13 of the Revised Code has occurred shall report the 2164
information upon which the belief is based to the monitoring 2165
organization conducting the program established by the board 2166
under section 4731.251 of the Revised Code. If any such report 2167
is made to the board, it shall be referred to the monitoring 2168
organization unless the board is aware that the individual who 2169
is the subject of the report does not meet the program 2170
eligibility requirements of section 4731.252 of the Revised 2171
Code. 2172

(C) Any professional association or society composed 2173
primarily of anesthesiologist assistants that suspends or 2174
revokes an individual's membership for violations of 2175
professional ethics, or for reasons of professional incompetence 2176
or professional malpractice, within sixty days after a final 2177
decision, shall report to the board, on forms prescribed and 2178
provided by the board, the name of the individual, the action 2179
taken by the professional organization, and a summary of the 2180
underlying facts leading to the action taken. 2181

The filing of a report with the board or decision not to 2182
file a report, investigation by the board, or any disciplinary 2183
action taken by the board, does not preclude a professional 2184
organization from taking disciplinary action against an 2185
anesthesiologist assistant. 2186

(D) Any insurer providing professional liability insurance 2187
to any person holding a valid certificate to practice as an 2188
anesthesiologist assistant or any other entity that seeks to 2189
indemnify the professional liability of an anesthesiologist 2190

assistant shall notify the board within thirty days after the 2191
final disposition of any written claim for damages where such 2192
disposition results in a payment exceeding twenty-five thousand 2193
dollars. The notice shall contain the following information: 2194

(1) The name and address of the person submitting the 2195
notification; 2196

(2) The name and address of the insured who is the subject 2197
of the claim; 2198

(3) The name of the person filing the written claim; 2199

(4) The date of final disposition; 2200

(5) If applicable, the identity of the court in which the 2201
final disposition of the claim took place. 2202

(E) The board may investigate possible violations of this 2203
chapter or the rules adopted under it that are brought to its 2204
attention as a result of the reporting requirements of this 2205
section, except that the board shall conduct an investigation if 2206
a possible violation involves repeated malpractice. As used in 2207
this division, "repeated malpractice" means three or more claims 2208
for malpractice within the previous five-year period, each 2209
resulting in a judgment or settlement in excess of twenty-five 2210
thousand dollars in favor of the claimant, and each involving 2211
negligent conduct by the anesthesiologist assistant. 2212

(F) All summaries, reports, and records received and 2213
maintained by the board pursuant to this section shall be held 2214
in confidence and shall not be subject to discovery or 2215
introduction in evidence in any federal or state civil action 2216
involving an anesthesiologist assistant, supervising physician, 2217
or health care facility arising out of matters that are the 2218
subject of the reporting required by this section. The board may 2219

use the information obtained only as the basis for an 2220
investigation, as evidence in a disciplinary hearing against an 2221
anesthesiologist assistant or supervising physician, or in any 2222
subsequent trial or appeal of a board action or order. 2223

The board may disclose the summaries and reports it 2224
receives under this section only to health care facility 2225
committees within or outside this state that are involved in 2226
credentialing or recredentialing an anesthesiologist assistant 2227
or supervising physician or reviewing their privilege to 2228
practice within a particular facility. The board shall indicate 2229
whether or not the information has been verified. Information 2230
transmitted by the board shall be subject to the same 2231
confidentiality provisions as when maintained by the board. 2232

(G) Except for reports filed by an individual pursuant to 2233
division (B) of this section, the board shall send a copy of any 2234
reports or summaries it receives pursuant to this section to the 2235
anesthesiologist assistant. The anesthesiologist assistant shall 2236
have the right to file a statement with the board concerning the 2237
correctness or relevance of the information. The statement shall 2238
at all times accompany that part of the record in contention. 2239

(H) An individual or entity that reports to the board, 2240
reports to the monitoring organization described in section 2241
4731.251 of the Revised Code, or refers an impaired 2242
anesthesiologist assistant to a treatment provider approved by 2243
the board under section 4731.25 of the Revised Code shall not be 2244
subject to suit for civil damages as a result of the report, 2245
referral, or provision of the information. 2246

(I) In the absence of fraud or bad faith, a professional 2247
association or society of anesthesiologist assistants that 2248
sponsors a committee or program to provide peer assistance to an 2249

anesthesiologist assistant with substance abuse problems, a 2250
representative or agent of such a committee or program, a 2251
representative or agent of the monitoring organization described 2252
in section 4731.251 of the Revised Code, and a member of the 2253
state medical board shall not be held liable in damages to any 2254
person by reason of actions taken to refer an anesthesiologist 2255
assistant to a treatment provider approved under section 4731.25 2256
of the Revised Code for examination or treatment. 2257

Sec. 4761.01. As used in this chapter: 2258

(A) "Respiratory care" means rendering or offering to 2259
render to individuals, groups, organizations, or the public any 2260
service involving the evaluation of cardiopulmonary function, 2261
the treatment of cardiopulmonary impairment, the assessment of 2262
treatment effectiveness, and the care of patients with 2263
deficiencies and abnormalities associated with the 2264
cardiopulmonary system. The practice of respiratory care 2265
includes: 2266

(1) Obtaining, analyzing, testing, measuring, and 2267
monitoring blood and gas samples in the determination of 2268
cardiopulmonary parameters and related physiologic data, 2269
including flows, pressures, and volumes, and the use of 2270
equipment employed for this purpose; 2271

(2) Administering, monitoring, recording the results of, 2272
and instructing in the use of medical gases, aerosols, and 2273
bronchopulmonary hygiene techniques, including drainage, 2274
aspiration, and sampling, and applying, maintaining, and 2275
instructing in the use of artificial airways, ventilators, and 2276
other life support equipment employed in the treatment of 2277
cardiopulmonary impairment and provided in collaboration with 2278
other licensed health care professionals responsible for 2279

providing care;	2280
(3) Performing cardiopulmonary resuscitation and	2281
respiratory rehabilitation techniques;	2282
(4) Administering medications for the testing or treatment	2283
of cardiopulmonary impairment.	2284
(B) "Respiratory care professional" means a person who is	2285
licensed under this chapter to practice the full range of	2286
respiratory care services as defined <u>described</u> in division (A)	2287
of this section.	2288
(C) "Physician" means an individual authorized under	2289
Chapter 4731. of the Revised Code to practice medicine and	2290
surgery or osteopathic medicine and surgery.	2291
(D) "Registered nurse" means an individual licensed under	2292
Chapter 4723. of the Revised Code to engage in the practice of	2293
nursing as a registered nurse.	2294
(E) "Hospital" means a facility that meets the operating	2295
standards of section 3727.02 of the Revised Code.	2296
(F) "Nursing facility" has the same meaning as in section	2297
5165.01 of the Revised Code.	2298
(G) "Certified hyperbaric technologist" means a person who	2299
administers hyperbaric oxygen therapy and is certified as a	2300
hyperbaric technologist by the national board of diving and	2301
hyperbaric medical technology or its successor organization.	2302
(H) "Hyperbaric oxygen therapy" means the administration	2303
of pure oxygen in a pressurized room or chamber, except that it	2304
does not include ventilator management.	2305
(I) "Advanced practice registered nurse" has the same	2306

meaning as in section 4723.01 of the Revised Code. 2307

~~(J)~~ (H) "Physician assistant" means an individual who 2308
holds a valid license to practice as a physician assistant 2309
issued under Chapter 4730. of the Revised Code ~~authorizing the~~ 2310
~~individual to provide services as a physician assistant to~~ 2311
~~patients under the supervision, control, and direction of one or~~ 2312
~~more physicians.~~ 2313

Sec. 4761.012. The secretary of the state medical board 2314
shall enforce the laws relating to the practice of respiratory 2315
care. If the secretary has knowledge or notice of a violation of 2316
this chapter or the rules adopted under it, the secretary shall 2317
investigate the matter, and, upon probable cause appearing, file 2318
a complaint and prosecute the offender. When requested by the 2319
secretary, the prosecuting attorney of the proper county shall 2320
take charge of and conduct the prosecution. 2321

Sec. 4761.03. (A) The state medical board shall regulate 2322
the practice of respiratory care in this state and the persons 2323
to whom the board issues licenses and limited permits under this 2324
chapter. Rules adopted under this chapter that deal with the 2325
provision of respiratory care in a hospital, other than rules 2326
regulating the issuance of licenses or limited permits, shall be 2327
consistent with the conditions for participation under medicare, 2328
Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 2329
42 U.S.C.A. 1395, as amended, and with the respiratory care 2330
accreditation standards of the joint commission ~~on accreditation~~ 2331
~~of healthcare organizations~~ or the American osteopathic 2332
association. 2333

(B) The board shall ~~:-~~ 2334

~~(A)~~ Adopt adopt, and may rescind or amend, rules in 2335

accordance with Chapter 119. of the Revised Code to carry out 2336
the purposes of this chapter, including rules prescribing the 2337
following: 2338

(1) The form and manner for filing applications ~~for~~ 2339
~~licensure and renewal, limited permits, and limited permit~~ 2340
~~extensions~~ under sections 4761.05 and 4761.06 of the Revised 2341
Code; 2342

(2) ~~The form, scoring, and scheduling~~ Standards for the 2343
approval of examinations and reexaminations administered by 2344
national organizations for licensure and, license renewal, and 2345
license reinstatement; 2346

(3) Standards for the approval of educational programs 2347
required to qualify for licensure and approval of continuing 2348
education programs required for license renewal; 2349

(4) Continuing education courses and the number of hour 2350
requirements necessary for license renewal, ~~in accordance with~~ 2351
under section 4761.06 of the Revised Code, including rules 2352
providing for pro rata reductions by month of the number of 2353
hours of continuing education that must be completed for license 2354
holders who are in their first renewal period, have been 2355
disabled by illness or accident, or have been absent from the 2356
country; 2357

(5) Procedures for the issuance and renewal of licenses 2358
and limited permits, including the duties that may be fulfilled 2359
by the board's executive director and other board employees; 2360

(6) Procedures for the ~~denial~~ limitation, suspension, 2361
~~permanent and revocation of licenses and limited permits, the~~ 2362
refusal to issue, renew, and reinstatement of or reinstate 2363
licenses and limited permits, ~~the conduct of hearings,~~ and the 2364

imposition of ~~fin~~es for engaging in conduct that is grounds for
~~such action and hearings~~ a reprimand or probation under section
4761.09 of the Revised Code;

(7) Standards of ethical conduct for the practice of
respiratory care;

~~(8) Conditions under which the license renewal fee and
continuing education requirements may be waived at the request
of a licensee who is not in active practice;~~

~~(9)~~The respiratory care tasks that may be performed by an
individual practicing as a polysomnographic technologist
pursuant to division (B) (3) of section 4761.10 of the Revised
Code;

~~(10) Procedures for registering out-of-state respiratory
care providers authorized to practice in this state under
division (A) (4) of section 4761.11 of the Revised Code;~~

~~(11)~~ (9) Requirements for criminal records checks of
applicants under section 4776.03 of the Revised Code;

~~(12) Procedures for accepting and storing copies of
hyperbaric technologist certifications filed with the board
pursuant to division (A) (11) of section 4761.11 of the Revised
Code.~~

~~(B) Determine~~ (C) The board shall determine the
sufficiency of an applicant's qualifications for admission to
the licensing examination or a reexamination, and for the
issuance or renewal of a license or limited permit;

~~(C) Determine~~ .

(D) The board shall determine the respiratory care
educational programs that are acceptable for fulfilling the

requirements of division (A) of section 4761.04 of the Revised Code, 2393
Code, 2394

~~(D) Schedule, administer, and score the licensing examination or any reexamination for license renewal or reinstatement. The board shall administer the licensing examinations at least twice a year and notify applicants of the time and place of the examinations.~~ 2395
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~~(E) Investigate complaints concerning alleged violations of section 4761.10 of the Revised Code or grounds for the suspension, permanent revocation, or refusal to issue licenses or limited permits under section 3123.47 or 4761.09 of the Revised Code. The board shall employ investigators who shall, under the direction of the executive director of the board, investigate complaints and make inspections and other inquiries as, in the judgment of the board, are appropriate to enforce sections 3123.41 to 3123.50, 4761.09, and 4761.10 of the Revised Code. Pursuant to an investigation and inspection, the investigators may review and audit records during normal business hours at the place of business of a licensee or person who is the subject of a complaint filed with the board or at any place where the records are kept.~~ 2400
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~~Except when required by court order, the board and its employees shall not disclose confidential information obtained during an investigation or identifying information about any person who files a complaint with the board.~~ 2414
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~~The~~ (1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this 2418
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chapter or any rule adopted under it. In the absence of bad 2423
faith, any person who reports information of that nature or who 2424
testifies before the board in any adjudication conducted under 2425
Chapter 119. of the Revised Code shall not be liable in damages 2426
in a civil action as a result of the report or testimony. Each 2427
complaint or allegation of a violation received by the board 2428
shall be assigned a case number and shall be recorded by the 2429
board. 2430

(2) Investigations of alleged violations of this chapter 2431
or any rule adopted under it shall be supervised by the 2432
supervising member elected by the board in accordance with 2433
section 4731.02 of the Revised Code and by the secretary as 2434
provided in section 4761.012 of the Revised Code. The president 2435
may designate another member of the board to supervise the 2436
investigation in place of the supervising member. No member of 2437
the board who supervises the investigation of a case shall 2438
participate in further adjudication of the case. 2439

(3) In investigating a possible violation of this chapter 2440
or any rule adopted under it, the board may ~~hear testimony in-~~ 2441
~~matters relating to the duties imposed upon it and issue~~ 2442
~~subpoenas pursuant to an investigation. The president and-~~ 2443
~~secretary of the board may, administer oaths, question~~ 2444
~~witnesses, conduct interviews, order the taking of depositions,~~ 2445
~~inspect and copy any books, accounts, papers, records, or~~ 2446
~~documents, and compel the attendance of witnesses and production~~ 2447
~~of books, accounts, papers, records, documents, and testimony,~~ 2448
~~except that a subpoena for patient record information shall not~~ 2449
~~be issued without consultation with the attorney general's~~ 2450
~~office and approval of the secretary and supervising member of~~ 2451
~~the board.~~ 2452

Before issuance of a subpoena for patient record 2453
information, the secretary and supervising member shall 2454
determine whether there is probable cause to believe that the 2455
complaint filed alleges a violation of this chapter or any rule 2456
adopted under it and that the records sought are relevant to the 2457
alleged violation and material to the investigation. The 2458
subpoena may apply only to records that cover a reasonable 2459
period of time surrounding the alleged violation. 2460

On failure to comply with any subpoena issued by the board 2461
and after reasonable notice to the person being subpoenaed, the 2462
board may move for an order compelling the production of persons 2463
or records pursuant to the Rules of Civil Procedure. 2464

A subpoena issued by the board may be served by a sheriff, 2465
the sheriff's deputy, or a board employee designated by the 2466
board. Service of a subpoena issued by the board may be made by 2467
delivering a copy of the subpoena to the person named therein, 2468
reading it to the person, or leaving it at the person's usual 2469
place of residence, usual place of business, or address on file 2470
with the board. When serving a subpoena to an applicant for or 2471
the holder of a license or limited permit issued under this 2472
chapter, service of the subpoena may be made by certified mail, 2473
return receipt requested, and the subpoena shall be deemed 2474
served on the date delivery is made or the date the person 2475
refuses to accept delivery. If the person being served refuses 2476
to accept the subpoena or is not located, service may be made to 2477
an attorney who notifies the board that the attorney is 2478
representing the person. 2479

A sheriff's deputy who serves a subpoena shall receive the 2480
same fees as a sheriff. Each witness who appears before the 2481
board in obedience to a subpoena shall receive the fees and 2482

mileage provided for under section 119.094 of the Revised Code. 2483

(F) ~~Conduct hearings,~~ The board shall keep records of its 2484
~~proceedings,~~ and do other things as are necessary and proper to 2485
carry out and enforce the provisions of this chapter~~;~~. 2486

(G) ~~Maintain,~~ The board shall maintain and publish, and 2487
~~make available upon request, for a fee not to exceed the actual-~~ 2488
~~cost of printing and mailing~~ on its internet web site all of the 2489
following: 2490

(1) The requirements for the issuance of licenses and 2491
limited permits under this chapter and rules adopted by the 2492
board; 2493

(2) A list of the names and locations of the institutions 2494
that each year granted degrees or certificates of completion in 2495
respiratory care~~;~~ 2496

~~(3) After the administration of each examination, a list-~~ 2497
~~of persons who passed the examination.~~ 2498

~~(H) Submit to the governor and to the general assembly-~~ 2499
~~each year a report of all of its official actions during the~~ 2500
~~preceding year, together with any findings and recommendations-~~ 2501
~~with regard to the improvement of the profession of respiratory-~~ 2502
~~care.~~ 2503

Sec. 4761.032. (A) The state medical board shall appoint a 2504
respiratory care advisory council for the purpose of advising 2505
the board on issues relating to the practice of respiratory 2506
care. The advisory council shall consist of not more than seven 2507
individuals knowledgeable in the area of respiratory care. 2508

A majority of the council members shall be individuals 2509
licensed under this chapter who are actively engaged in the 2510

practice of respiratory care. The board shall include all of the 2511
following on the council: 2512

(1) One physician who is a member of the state medical 2513
board; 2514

(2) One physician who has clinical training and experience 2515
in pulmonary disease; 2516

(3) One individual who is not affiliated with any health 2517
care profession, who shall be appointed to represent the 2518
interest of consumers. 2519

The Ohio state medical association, or its successor 2520
organization, may nominate not more than three individuals for 2521
consideration by the board in appointing the physician member 2522
described in division (A)(2) of this section. 2523

The Ohio society for respiratory care, or its successor 2524
organization, may nominate not more than three individuals for 2525
consideration by the board in appointing any member of the 2526
council other than the physician members described in divisions 2527
(A)(1) and (2) of this section. 2528

(B) Not later than ninety days after ~~the effective date of~~ 2529
this section January 21, 2018, the board shall make initial 2530
appointments to the council. ~~Members~~ Initial members shall serve 2531
~~three year staggered~~ terms of office in accordance with rules 2532
~~adopted~~ of one, two, or three years, as selected by the board. 2533
Thereafter, terms of office shall be for three years, with each 2534
term ending on the same day of the same month as the term that 2535
it succeeds. A council member shall continue in office 2536
subsequent to the expiration date of the member's term until a 2537
successor is appointed and takes office, or until a period of 2538
sixty days has elapsed, whichever occurs first. Each council 2539

member shall hold office from the date of appointment until the 2540
end of the term for which the member was appointed. 2541

~~With approval from the director of administrative~~ 2542
~~services, members may receive an amount fixed under division (J)~~ 2543
~~of section 124.15 of the Revised Code for each day the member is~~ 2544
~~performing the member's official duties and (C) Members shall~~ 2545
serve without compensation, but shall be reimbursed for actual 2546
and necessary expenses incurred in performing ~~those~~ their 2547
official duties. 2548

(D) The council shall meet at least four times each year 2549
and at such other times as may be necessary to carry out its 2550
responsibilities. 2551

(E) The council may submit to the board recommendations 2552
concerning all of the following: 2553

(1) Requirements for issuing a license to practice as a 2554
respiratory care professional or as a limited permit holder, 2555
including the educational and experience requirements that must 2556
be met to receive the license or permit; 2557

(2) Existing and proposed rules pertaining to the practice 2558
of respiratory care and the administration and enforcement of 2559
this chapter; 2560

(3) Standards for the approval of educational programs 2561
required to qualify for licensure and continuing education 2562
programs for licensure renewal; 2563

(4) Policies related to the issuance and renewal of 2564
licenses and limited permits; 2565

(5) Fees for the issuance and renewal of a license to 2566
practice respiratory care as a licensee or as a limited permit 2567

<u>holder;</u>	2568
<u>(6) Standards of practice and ethical conduct in the</u>	2569
<u>practice of respiratory care;</u>	2570
<u>(7) The safe and effective practice of respiratory care,</u>	2571
<u>including scope of practice and minimal standards of care.</u>	2572
Sec. 4761.04. (A) Except as provided in division (B) of	2573
this section, no person is eligible for licensure as a	2574
respiratory care professional unless the person has shown, to	2575
the satisfaction of the state medical board, all of the	2576
following:	2577
(1) That the person is of good moral character;	2578
(2) That the person has successfully completed the	2579
requirements of an educational program approved by the board	2580
that includes instruction in the biological and physical	2581
sciences, pharmacology, respiratory care theory, procedures, and	2582
clinical practice, and cardiopulmonary rehabilitation	2583
techniques;	2584
(3) That the person has passed an examination administered-	2585
<u>approved under rules adopted</u> by the board that tests the	2586
applicant's knowledge of the basic and clinical sciences	2587
relating to respiratory care theory and practice, professional	2588
skills and judgment in the utilization of respiratory care	2589
techniques, and such other subjects as the board considers	2590
useful in determining fitness to practice.	2591
(B) The board may waive the requirements of division (A)-	2592
of this section with respect to any applicant who presents proof-	2593
of current licensure in another state whose standards for-	2594
licensure are at least equal to those in effect in this state on-	2595
the date of application. The board may waive the requirements of-	2596

~~divisions (A) (2) and (3) of this section with respect to any~~ 2597
~~applicant who presents proof of having successfully completed~~ 2598
~~any examination recognized by the board as meeting the~~ 2599
~~requirements of division (A) (3) of this section~~ 2600
Any person 2600
licensed to practice respiratory care by the former Ohio 2601
respiratory care board before January 21, 2018, may continue to 2602
practice respiratory care in this state under that license if 2603
the person continues to meet the requirements to renew a license 2604
under this chapter and renews the license through the state 2605
medical board. 2606

The state medical board may take any of the following 2607
actions, as provided in section 4761.09 of the Revised Code, 2608
against the holder of a license to practice respiratory care 2609
issued before January 21, 2018, by the former Ohio respiratory 2610
care board: 2611

(1) Limit, revoke, or suspend the holder's license; 2612

(2) Refuse to renew or reinstate the holder's license; 2613

(3) Reprimand the holder or place the holder on probation. 2614

Sec. 4761.05. (A) The state medical board shall issue a 2615
license to any applicant who complies with the requirements of 2616
section 4761.04 of the Revised Code, files the prescribed 2617
application form, and pays the fee or fees required under 2618
section 4761.07 of the Revised Code. The license entitles the 2619
holder to practice respiratory care. ~~The licensee shall display~~ 2620
~~the license in a conspicuous place at the licensee's principal~~ 2621
~~place of business.~~ 2622

(B) (1) The board shall issue a limited permit to any 2623
applicant who meets the requirements of division (A) (1) of 2624
section 4761.04 of the Revised Code, files ~~the prescribed an~~ 2625

application on a form furnished by the board, pays the fee 2626
required under section 4761.07 of the Revised Code, and meets 2627
either of the following requirements: 2628

(a) Is enrolled in and is in good standing in a 2629
respiratory care educational program approved by the board that 2630
meets the requirements of division (A) (2) of section 4761.04 of 2631
the Revised Code leading to a degree or certificate of 2632
completion or is a graduate of the program; 2633

(b) Is employed as a provider of respiratory care in this 2634
state and was employed as a provider of respiratory care in this 2635
state prior to March 14, 1989. 2636

(2) If no grounds apply under section 4761.09 of the 2637
Revised Code for denying a limited permit to the applicant and 2638
the applicant meets the requirements of division (B) of this 2639
section, the board shall issue a limited permit to the 2640
applicant. 2641

The board shall maintain a register of all persons holding 2642
limited permits under this chapter. The limited permit 2643
authorizes the holder to provide respiratory care under the 2644
supervision of a respiratory care professional. A person issued 2645
a limited permit under division (B) (1) (a) of this section may 2646
practice respiratory care under the limited permit for not more 2647
than the earliest of the following: 2648

(a) Three years after the date the limited permit is 2649
issued; 2650

(b) One year following the date of receipt of a 2651
certificate of completion from a board-approved respiratory care 2652
education program; 2653

(c) Until the holder discontinues participation in the 2654

educational program. 2655

~~The board may extend the term of a limited permit in cases~~ 2656
~~of unusual hardship. The holder seeking an extension shall~~ 2657
~~petition the board in the form and manner prescribed by the~~ 2658
~~board in rules adopted under section 4761.03 of the Revised~~ 2659
~~Code.~~ This division does not require a student enrolled in an 2660
educational program leading to a degree or certificate of 2661
completion in respiratory care approved by the board to obtain a 2662
limited permit to perform any duties that are part of the 2663
required course of study. 2664

(3) A person issued a limited permit under division (B) (1) 2665
(b) of this section may practice under a limited permit for not 2666
more than three years, except that this restriction does not 2667
apply to a permit holder who, on March 14, 1989, has been 2668
employed as a provider of respiratory care for an average of not 2669
less than twenty-five hours per week for a period of not less 2670
than five years by a hospital. 2671

(4) The board may revoke a limited permit upon proof 2672
satisfactory to the board that the permit holder has engaged in 2673
practice in this state outside the scope of the permit, that the 2674
holder has engaged in unethical conduct, or that there are 2675
grounds for action against the holder under section 4761.09 of 2676
the Revised Code. 2677

~~(C) All holders of licenses and limited permits~~ The holder 2678
of a license or limited permit issued under this section shall 2679
~~display, in a conspicuous place on their persons, information~~ 2680
~~that identifies the type of authorization under which they~~ 2681
~~practice~~ either provide verification of licensure or permit 2682
status from the board's internet web site on request or 2683
prominently display a wall certificate in the license holder's 2684

office or place where the majority of the holder's practice is 2685
conducted. 2686

Sec. 4761.06. (A) Each license to practice respiratory 2687
care shall be renewed biennially on or before the last day of 2688
June of every even-numbered year. Each limited permit to 2689
practice respiratory care shall be renewed annually. Each person 2690
holding a license or limited permit to practice respiratory care 2691
shall apply to the state medical board on the form and according 2692
to the schedule prescribed by the board for renewal of the 2693
license or limited permit. Licenses and limited permits shall be 2694
renewed in accordance with the standard renewal procedure of 2695
Chapter 4745. of the Revised Code. The state medical board shall 2696
renew a license upon the payment of the license renewal fee 2697
prescribed under section 4761.07 of the Revised Code and proof 2698
of satisfactory completion of the continuing education or 2699
reexamination requirements of division (B) of this section. ~~The~~ 2700

At least one month before a license expires, the board 2701
shall provide a renewal notice. Failure of any person to receive 2702
a notice of renewal from the board shall not excuse the person 2703
from the requirements contained in this section. Each person 2704
holding a license shall give notice to the board of a change in 2705
the license holder's residence address, business address, or 2706
electronic mail address not later than thirty days after the 2707
change occurs. 2708

The board shall renew a limited permit upon payment of the 2709
limited permit renewal fee prescribed under section 4761.07 of 2710
the Revised Code and submission of one of the following: 2711

(1) If the limited permit was issued on the basis of 2712
division (B)(1)(a) of section 4761.05 of the Revised Code, proof 2713
acceptable to the board of enrollment and good standing in an 2714

educational program that meets the requirements of division (A) 2715
(2) of section 4761.04 of the Revised Code or of graduation from 2716
such a program; 2717

(2) If the limited permit was issued on the basis of 2718
division (B) (1) (b) of section 4761.05 of the Revised Code, proof 2719
acceptable to the board of employment as a provider of 2720
respiratory care under the supervision of a respiratory care 2721
professional. 2722

(B) On and after March 14, 1991, and every year 2723
thereafter, on or before the annual renewal date, the holder of 2724
a limited permit issued under division (B) (1) (b) of section 2725
4761.05 of the Revised Code shall submit proof to the board that 2726
the holder has satisfactorily completed the number of hours of 2727
continuing education required by the board, which shall not be 2728
less than three nor more than ten hours of continuing education 2729
acceptable to the board. 2730

On or before the biennial renewal date, a license holder 2731
shall submit proof to the board that the license holder has 2732
satisfactorily completed the number of hours of continuing 2733
education required by the board, which shall be not less than 2734
six nor more than twenty hours of continuing education 2735
acceptable to the board, or has passed a reexamination in 2736
accordance with the board's renewal requirements. ~~The board may~~ 2737
~~waive all or part of the continuing education requirement for a~~ 2738
~~license holder who has held the license for less than two years.~~ 2739

(C) (1) A license to practice respiratory care that is not 2740
renewed on or before its expiration date is automatically 2741
suspended on its expiration date. Continued practice after 2742
suspension shall be considered as practicing in violation of 2743
section 4761.10 of the Revised Code. 2744

(2) If a license has been suspended pursuant to division (C) (1) of this section for two years or less, it may be reinstated. The state medical board shall reinstate the license upon the applicant's submission of a complete renewal application and payment of a reinstatement fee of one hundred dollars. 2745
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(3) (a) If a license has been suspended pursuant to division (C) (1) of this section for more than two years, it may be restored. The board may restore the license upon an applicant's submission of a complete restoration application and a restoration fee of one hundred twenty-five dollars and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not restore a license unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a license issued pursuant to division (A) of this section. 2751
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(b) The board may impose terms and conditions for the restoration, including any one or more of the following: 2761
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(i) Requiring the applicant to pass an oral or written examination, or both, to determine the applicant's present fitness to resume practice; 2763
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(ii) Requiring the applicant to obtain additional training and to pass an examination upon completion of such training; 2766
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(iii) Restricting or limiting the extent, scope, or type of practice of the applicant. 2768
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Sec. 4761.07. (A) The state medical board shall charge any license applicant or holder who is to take an examination required under division (A) (3) of section 4761.04 or a reexamination required under division (B) of section 4761.06 of 2770
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the Revised Code for license renewal or under section 4761.09 of 2774
the Revised Code for license reinstatement, a nonrefundable 2775
examination fee, not to exceed the amount necessary to cover the 2776
expense of administering the examination. The license applicant 2777
or holder shall pay the fee at the time of application for 2778
licensure or renewal. 2779

(B) The board shall establish the following additional 2780
nonrefundable fees and penalty: 2781

(1) An initial license fee, ~~not to exceed~~ of seventy-five 2782
dollars; 2783

(2) A biennial license renewal fee, ~~not to exceed one~~ 2784
~~hundred~~ of seventy-five dollars; 2785

(3) A limited permit fee, ~~not to exceed~~ of twenty 2786
dollars; 2787

(4) A limited permit renewal fee, ~~not to exceed~~ of ten 2788
dollars; 2789

(5) A ~~late renewal penalty, not to exceed fifty per cent~~ 2790
~~of the renewal fee;~~ 2791

~~(6) A fee for accepting and storing hyperbaric~~ 2792
~~technologist certifications filed with the board under division~~ 2793
~~(A) (11) of section 4761.11 of the Revised Code, not to exceed~~ 2794
~~twenty dollars~~ duplicate license or limited permit fee of 2795
thirty-five dollars; 2796

(6) In the case of a person holding a license issued under 2797
this chapter, a license verification fee of fifty dollars. 2798

(C) Notwithstanding division (B) (4) of this section, after 2799
the third renewal of a limited permit that meets the exception 2800
in division (B) (3) of section 4761.05 of the Revised Code, the 2801

limited permit renewal fee shall be ~~one half the amount of the~~ 2802
~~biennial license renewal fee established under division (B) (2)~~ 2803
~~of this section and section 4761.08 of the Revised Code~~ thirty- 2804
five dollars. 2805

~~(D) The board shall adjust the fees biennially and within~~ 2806
~~the limits established by division (B) of this section to~~ 2807
~~provide sufficient revenues to meet its expenses.~~ 2808

~~(E) The board may, by rule, provide for the waiver of all~~ 2809
~~or part of a license fee when the license is issued less than~~ 2810
~~eighteen months before its expiration date.~~ 2811

~~(F) All fees received by the board shall be deposited into~~ 2812
~~the state treasury to the credit of the state medical board~~ 2813
~~operating fund pursuant to section 4731.24 of the Revised Code.~~ 2814

Sec. 4761.09. (A) The state medical board ~~may refuse to~~ 2815
~~issue or renew a license or a limited permit, may issue a~~ 2816
~~reprimand, may suspend or permanently revoke a license or~~ 2817
~~limited permit, or may place a license or limited permit holder~~ 2818
~~on probation, on any of the following grounds, by an affirmative~~ 2819
vote of not fewer than six members, shall, to the extent 2820
permitted by law, limit, revoke, or suspend an individual's 2821
license or limited permit, refuse to issue a license or limited 2822
permit to an individual, refuse to renew a license or limited 2823
permit, refuse to reinstate a license or limited permit, or 2824
reprimand or place on probation the holder of a license or 2825
limited permit for one or more of the following reasons: 2826

(1) A plea of guilty to, a judicial finding of guilt of, 2827
or a judicial finding of eligibility for intervention in lieu of 2828
conviction for ~~an offense involving moral turpitude or of a~~ 2829
~~felony, in which case a certified copy of the court record shall~~ 2830

~~be conclusive evidence of the matter, a felony;~~ 2831

~~(2) Violating Commission of an act that constitutes a~~ 2832
~~felony in this state, regardless of the jurisdiction in which~~ 2833
~~the act was committed;~~ 2834

~~(3) A plea of guilty to, a judicial finding of guilt of,~~ 2835
~~or a judicial finding of eligibility for intervention in lieu of~~ 2836
~~conviction for, a misdemeanor committed in the course of~~ 2837
~~practice;~~ 2838

~~(4) Commission of an act in the course of practice that~~ 2839
~~constitutes a misdemeanor in this state, regardless of the~~ 2840
~~jurisdiction in which the act was committed;~~ 2841

~~(5) A plea of guilty to, a judicial finding of guilt of,~~ 2842
~~or a judicial finding of eligibility for intervention in lieu of~~ 2843
~~conviction for, a misdemeanor involving moral turpitude;~~ 2844

~~(6) Commission of an act involving moral turpitude that~~ 2845
~~constitutes a misdemeanor in this state, regardless of the~~ 2846
~~jurisdiction in which the act was committed;~~ 2847

~~(7) Except when civil penalties are imposed under section~~ 2848
~~4761.091 of the Revised Code, violating or attempting to~~ 2849
~~violate, directly or indirectly, or assisting in or abetting the~~ 2850
~~violation of, or conspiring to violate, any provision of this~~ 2851
~~chapter or an order or rule of the rules adopted by the board;~~ 2852

~~(3) Assisting another person in that person's violation of~~ 2853
~~any provision of this chapter or an order or rule of the board;~~ 2854

~~(4) Obtaining a license or limited permit by means of~~ 2855
~~fraud,~~ (8) ~~Making a false, fraudulent, deceptive, or misleading~~ 2856
~~representation, or concealment of material facts or making any~~ 2857
~~other material misrepresentation to the board statement in the~~ 2858

solicitation of or advertising for patients; in relation to the 2859
practice of respiratory care; or in securing or attempting to 2860
secure any license or permit issued by the board under this 2861
chapter. 2862

As used in division (A) (8) of this section, "false, 2863
fraudulent, deceptive, or misleading statement" means a 2864
statement that includes a misrepresentation of fact, is likely 2865
to mislead or deceive because of a failure to disclose material 2866
facts, is intended or is likely to create false or unjustified 2867
expectations of favorable results, or includes representations 2868
or implications that in reasonable probability will cause an 2869
ordinarily prudent person to misunderstand or be deceived. 2870

(9) Committing fraud during the administration of the 2871
examination for a license to practice or committing fraud, 2872
misrepresentation, or deception in applying for, renewing, or 2873
securing any license or permit issued by the board; 2874

(10) A departure from, or failure to conform to, minimal 2875
standards of care of similar practitioners under the same or 2876
similar circumstances, whether or not actual injury to a patient 2877
is established; 2878

~~(5) Being guilty of negligence or gross misconduct in the~~ 2879
~~practice of respiratory care;~~ 2880

~~(6)~~ (11) Violating the standards of ethical conduct 2881
adopted by the board, in the practice of respiratory care; 2882

~~(7) Engaging in dishonorable, unethical, or unprofessional~~ 2883
~~conduct of a character likely to deceive, defraud, or harm the~~ 2884
~~public;~~ 2885

~~(8) Using any dangerous drug, as defined in section~~ 2886
~~4729.01 of the Revised Code, or alcohol to the extent that the~~ 2887

use impairs the ability to practice respiratory care at an	2888
acceptable level of competency;	2889
(9) Practicing respiratory care while mentally	2890
incompetent;	2891
(10) Accepting commissions, rebates, or other forms of	2892
remuneration for patient referrals	2893
<u>(12) The obtaining of, or</u>	2894
<u>attempting to obtain, money or anything of value by fraudulent</u>	2895
<u>misrepresentations in the course of practice;</u>	2896
<u>(13) Violation of the conditions of limitation placed by</u>	2897
<u>the board upon a license or permit;</u>	2898
<u>(14) Inability to practice according to acceptable and</u>	2899
<u>prevailing standards of care by reason of mental illness or</u>	2900
<u>physical illness, including physical deterioration that</u>	2901
<u>adversely affects cognitive, motor, or perceptive skills;</u>	2902
<u>(15) Any of the following actions taken by an agency</u>	2903
<u>responsible for authorizing, certifying, or regulating an</u>	2904
<u>individual to practice a health care occupation or provide</u>	2905
<u>health care services in this state or another jurisdiction, for</u>	2906
<u>any reason other than the nonpayment of fees: the limitation,</u>	2907
<u>revocation, or suspension of an individual's license; acceptance</u>	2908
<u>of an individual's license surrender; denial of a license;</u>	2909
<u>refusal to renew or reinstate a license; imposition of</u>	2910
<u>probation; or issuance of an order of censure or other</u>	2911
<u>reprimand;</u>	2912
<u>(16) The revocation, suspension, restriction, reduction,</u>	2913
<u>or termination of practice privileges by the United States</u>	2914
<u>department of defense or department of veterans affairs;</u>	2915
<u>(17) Termination or suspension from participation in the</u>	2916
<u>medicare or medicaid programs by the department of health and</u>	

human services or other responsible agency for any act or acts 2917
that also would constitute a violation of division (A) (10), 2918
(12), or (14) of this section; 2919

(18) Impairment of ability to practice according to 2920
acceptable and prevailing standards of care because of habitual 2921
or excessive use or abuse of drugs, alcohol, or other substances 2922
that impair ability to practice; 2923

(19) Failure to cooperate in an investigation conducted by 2924
the board under division (E) of section 4761.03 of the Revised 2925
Code, including failure to comply with a subpoena or order 2926
issued by the board or failure to answer truthfully a question 2927
presented by the board in an investigative interview, an 2928
investigative office conference, at a deposition, or in written 2929
interrogatories, except that failure to cooperate with an 2930
investigation shall not constitute grounds for discipline under 2931
this section if a court of competent jurisdiction has issued an 2932
order that either quashes a subpoena or permits the individual 2933
to withhold the testimony or evidence in issue; 2934

~~(11)~~(20) Practicing in an area of respiratory care for 2935
which the person is clearly untrained or incompetent or 2936
practicing in a manner that conflicts with section 4761.17 of 2937
the Revised Code; 2938

~~(12)~~(21) Employing, directing, or supervising a person 2939
who is not authorized to practice respiratory care under this 2940
chapter in the performance of respiratory care procedures; 2941

~~(13)~~(22) Misrepresenting educational attainments or 2942
authorized functions for the purpose of obtaining some benefit 2943
related to the practice of respiratory care; 2944

~~(14)~~(23) Assisting suicide as defined in section 3795.01 2945

of the Revised Code; 2946

(24) Representing, with the purpose of obtaining 2947
compensation or other advantage as personal gain or for any 2948
other person, that an incurable disease or injury, or other 2949
incurable condition, can be permanently cured. 2950

~~Before the board may take any action under this section,~~ 2951
~~other than issuance of a summary suspension order under division~~ 2952
~~(C) of this section, the executive director of the board shall~~ 2953
~~prepare and file written charges with the board. Disciplinary~~ 2954
actions taken by the board under division (A) of this section 2955
shall be taken pursuant to an adjudication under Chapter 119. of 2956
the Revised Code, except that in lieu of an adjudication, the 2957
board may enter into a consent agreement with an individual to 2958
resolve an allegation of a violation of this chapter or any rule 2959
adopted under it. A consent agreement, when ratified by an 2960
affirmative vote of not fewer than six members of the board, 2961
shall constitute the findings and order of the board with 2962
respect to the matter addressed in the agreement. If the board 2963
refuses to ratify a consent agreement, the admissions and 2964
findings contained in the consent agreement shall be of no 2965
effect. 2966

A telephone conference call may be utilized for 2967
ratification of a consent agreement that revokes or suspends an 2968
individual's license or permit. The telephone conference call 2969
shall be considered a special meeting under division (F) of 2970
section 121.22 of the Revised Code. 2971

~~(B) If the board orders a license or limited permit holder~~ 2972
~~placed on probation, the order shall be accompanied by a written~~ 2973
~~statement of the conditions under which the person may be~~ 2974
~~restored to practice.~~ 2975

~~The person may reapply to the board for original issuance
of a license after one year following the date the license was
denied.~~ 2976
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~~Except as otherwise provided in division (D) of this
section, a person may apply to the board for the reinstatement
of a license or limited permit after one year following the date
of suspension or refusal to renew. The board may accept or
refuse the application for reinstatement and may require that
the applicant pass a reexamination as a condition of eligibility
for reinstatement.~~ 2979
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~~(C) If the president and secretary of the board determine
that there is clear and convincing evidence that a license or
limited permit holder has committed an act that is grounds for
board action under division (A) of this section and that
continued practice by the license or permit holder presents a
danger of immediate and serious harm to the public, the
president and secretary may recommend that the board suspend the
license or limited permit without a prior hearing. The president
and secretary shall submit in writing to the board the
allegations causing them to recommend the suspension.~~ 2986
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~~On review of the allegations, the board, by a vote of not
less than seven of its members, may suspend a license or limited
permit without a prior hearing. The board may review the
allegations and vote on the suspension by a telephone conference
call.~~ 2996
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~~If the board votes to suspend a license or limited permit
under this division, the board shall issue a written order of
summary suspension to the license or limited permit holder in
accordance with section 119.07 of the Revised Code. If the
license or limited permit holder requests a hearing by the~~ 3001
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~~board, the board shall conduct the hearing in accordance with 3006
Chapter 119. of the Revised Code. Notwithstanding section 119.12- 3007
of the Revised Code, a court of common pleas shall not grant a 3008
suspension of the board's order of summary suspension pending 3009
determination of an appeal filed under that section. 3010~~

~~Any order of summary suspension issued under this division 3011
shall remain in effect until a final adjudication order issued 3012
by the board pursuant to division (A) of this section becomes 3013
effective. The board shall issue its final adjudication order 3014
regarding an order of summary suspension issued under this 3015
division not later than sixty days after completion of its 3016
hearing. Failure to issue the order within sixty days shall 3017
result in immediate dissolution of the suspension order, but 3018
shall not invalidate any subsequent, final adjudication order 3019
Any action taken by the board under division (A) of this section 3020
resulting in a suspension from practice shall be accompanied by 3021
a written statement of the conditions under which the 3022
individual's license or permit may be reinstated. The board 3023
shall adopt rules governing conditions to be imposed for 3024
reinstatement. Reinstatement of a license or permit suspended 3025
pursuant to division (A) of this section requires an affirmative 3026
vote of not fewer than six members of the board. 3027~~

~~(C) When the board refuses to grant or issue a license or 3028
permit to an applicant, revokes an individual's license or 3029
permit, refuses to renew an individual's license or permit, or 3030
refuses to reinstate an individual's license or permit, the 3031
board may specify that its action is permanent. An individual 3032
subject to a permanent action taken by the board is forever 3033
thereafter ineligible to hold a license or permit and the board 3034
shall not accept an application for reinstatement of the license 3035
or permit or for issuance of a new license or permit. 3036~~

(D) If the board is required by Chapter 119. of the 3037
Revised Code to give notice of an opportunity for a hearing and 3038
if the individual subject to the notice does not timely request 3039
a hearing in accordance with section 119.07 of the Revised Code, 3040
the board is not required to hold a hearing, but may adopt, by 3041
an affirmative vote of not fewer than six of its members, a 3042
final order that contains the board's findings. In the final 3043
order, the board may order any of the sanctions identified under 3044
division (A) of this section. 3045

(E) In enforcing division (A) (14) of this section, the 3046
board, upon a showing of a possible violation, may compel any 3047
individual authorized to practice by this chapter or who has 3048
submitted an application pursuant to this chapter to submit to a 3049
mental examination, physical examination, including an HIV test, 3050
or both a mental and a physical examination. The expense of the 3051
examination is the responsibility of the individual compelled to 3052
be examined. Failure to submit to a mental or physical 3053
examination or consent to an HIV test ordered by the board 3054
constitutes an admission of the allegations against the 3055
individual unless the failure is due to circumstances beyond the 3056
individual's control, and a default and final order may be 3057
entered without the taking of testimony or presentation of 3058
evidence. If the board finds an individual unable to practice 3059
because of the reasons set forth in division (A) (14) of this 3060
section, the board shall require the individual to submit to 3061
care, counseling, or treatment by physicians approved or 3062
designated by the board, as a condition for initial, continued, 3063
reinstated, or renewed authority to practice. An individual 3064
affected under this division shall be afforded an opportunity to 3065
demonstrate to the board the ability to resume practice in 3066
compliance with acceptable and prevailing standards under the 3067

provisions of the individual's license or permit. For the 3068
purpose of division (A) (14) of this section, any individual who 3069
applies for or receives a license or permit to practice under 3070
this chapter accepts the privilege of practicing in this state 3071
and, by so doing, shall be deemed to have given consent to 3072
submit to a mental or physical examination when directed to do 3073
so in writing by the board, and to have waived all objections to 3074
the admissibility of testimony or examination reports that 3075
constitute a privileged communication. 3076

(F) For the purposes of division (A) (18) of this section, 3077
any individual authorized to practice by this chapter accepts 3078
the privilege of practicing in this state subject to supervision 3079
by the board. By filing an application for or holding a license 3080
or permit under this chapter, an individual shall be deemed to 3081
have given consent to submit to a mental or physical examination 3082
when ordered to do so by the board in writing, and to have 3083
waived all objections to the admissibility of testimony or 3084
examination reports that constitute privileged communications. 3085

If it has reason to believe that any individual authorized 3086
to practice by this chapter or any applicant for a license or 3087
permit suffers such impairment, the board may compel the 3088
individual to submit to a mental or physical examination, or 3089
both. The expense of the examination is the responsibility of 3090
the individual compelled to be examined. Any mental or physical 3091
examination required under this division shall be undertaken by 3092
a treatment provider or physician who is qualified to conduct 3093
the examination and who is chosen by the board. 3094

Failure to submit to a mental or physical examination 3095
ordered by the board constitutes an admission of the allegations 3096
against the individual unless the failure is due to 3097

circumstances beyond the individual's control, and a default and 3098
final order may be entered without the taking of testimony or 3099
presentation of evidence. If the board determines that the 3100
individual's ability to practice is impaired, the board shall 3101
suspend the individual's license or permit or deny the 3102
individual's application and shall require the individual, as a 3103
condition for an initial, continued, reinstated, or renewed 3104
license or permit, to submit to treatment. 3105

Before being eligible to apply for reinstatement of a 3106
license or permit suspended under this division, the impaired 3107
practitioner shall demonstrate to the board the ability to 3108
resume practice in compliance with acceptable and prevailing 3109
standards of care under the provisions of the practitioner's 3110
license or permit. The demonstration shall include, but shall 3111
not be limited to, the following: 3112

(1) Certification from a treatment provider approved under 3113
section 4731.25 of the Revised Code that the individual has 3114
successfully completed any required inpatient treatment; 3115

(2) Evidence of continuing full compliance with an 3116
aftercare contract or consent agreement; 3117

(3) Two written reports indicating that the individual's 3118
ability to practice has been assessed and that the individual 3119
has been found capable of practicing according to acceptable and 3120
prevailing standards of care. The reports shall be made by 3121
individuals or providers approved by the board for making the 3122
assessments and shall describe the basis for their 3123
determination. 3124

The board may reinstate a license or permit suspended 3125
under this division after that demonstration and after the 3126

individual has entered into a written consent agreement. 3127

When the impaired practitioner resumes practice, the board 3128
shall require continued monitoring of the individual. The 3129
monitoring shall include, but not be limited to, compliance with 3130
the written consent agreement entered into before reinstatement 3131
or with conditions imposed by board order after a hearing, and, 3132
upon termination of the consent agreement, submission to the 3133
board for at least two years of annual written progress reports 3134
made under penalty of perjury stating whether the individual has 3135
maintained sobriety. 3136

(G) If the secretary and supervising member determine both 3137
of the following, they may recommend that the board suspend an 3138
individual's license or permit without a prior hearing: 3139

(1) That there is clear and convincing evidence that an 3140
individual has violated division (A) of this section; 3141

(2) That the individual's continued practice presents a 3142
danger of immediate and serious harm to the public. 3143

Written allegations shall be prepared for consideration by 3144
the board. The board, upon review of those allegations and by an 3145
affirmative vote of not fewer than six of its members, excluding 3146
the secretary and supervising member, may suspend a license or 3147
permit without a prior hearing. A telephone conference call may 3148
be utilized for reviewing the allegations and taking the vote on 3149
the summary suspension. 3150

The board shall issue a written order of suspension by 3151
certified mail or in person in accordance with section 119.07 of 3152
the Revised Code. The order shall not be subject to suspension 3153
by the court during pendency of any appeal filed under section 3154
119.12 of the Revised Code. If the individual subject to the 3155

summary suspension requests an adjudicatory hearing by the 3156
board, the date set for the hearing shall be within fifteen 3157
days, but not earlier than seven days, after the individual 3158
requests the hearing, unless otherwise agreed to by both the 3159
board and the individual. 3160

Any summary suspension imposed under this division shall 3161
remain in effect, unless reversed on appeal, until a final 3162
adjudicative order issued by the board pursuant to this section 3163
and Chapter 119. of the Revised Code becomes effective. The 3164
board shall issue its final adjudicative order within seventy- 3165
five days after completion of its hearing. A failure to issue 3166
the order within seventy-five days shall result in dissolution 3167
of the summary suspension order but shall not invalidate any 3168
subsequent, final adjudicative order. 3169

~~(D) For purposes of this division, any individual who~~ 3170
~~holds a license or permit issued under this chapter, or applies~~ 3171
~~for a license or permit to practice respiratory care, is deemed~~ 3172
~~to have given consent to submit to a mental or physical~~ 3173
~~examination when directed to do so in writing by the board and~~ 3174
~~to have waived all objections to the admissibility of testimony~~ 3175
~~or examination reports that constitute a privileged~~ 3176
~~communication.~~ 3177

~~For purposes of division (A) (8) of this section, if the~~ 3178
~~board has reason to believe that any individual who holds a~~ 3179
~~license or permit issued under this chapter or any applicant for~~ 3180
~~a license or permit suffers such impairment, the board may~~ 3181
~~compel the individual to submit to a mental or physical~~ 3182
~~examination, or both. The expense of the examination is the~~ 3183
~~responsibility of the individual compelled to be examined. Any~~ 3184
~~mental or physical examination required under this division~~ 3185

~~shall be undertaken by a treatment provider or physician
qualified to conduct such examination and chosen by the board.~~ 3186
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~~Failure to submit to a mental or physical examination
ordered by the board constitutes an admission of the allegations
against the individual unless the failure is due to
circumstances beyond the individual's control, and a default and
final order may be entered without the taking of testimony or
presentation of evidence. If the board determines that the
individual's ability to practice is impaired, the board shall
suspend the individual's license or permit or deny the
individual's application and shall require the individual, as a
condition for initial, continued, reinstated, or renewed
licensure, to submit to treatment.~~ 3188
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~~Before being eligible to apply for reinstatement of a
license or permit suspended under this division, the respiratory
care professional shall demonstrate to the board the ability to
resume practice in compliance with acceptable and prevailing
standards of care. The demonstration shall include the
following:~~ 3199
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~~(1) Certification from a treatment provider approved under
section 4731.25 of the Revised Code that the individual has
successfully completed any required inpatient treatment;~~ 3205
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~~(2) Evidence of continuing full compliance with an
aftercare contract or consent agreement;~~ 3208
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~~(3) Two written reports indicating that the individual's
ability to practice has been assessed and that the individual
has been found capable of practicing according to acceptable and
prevailing standards of care. The reports shall be made by
individuals or providers approved by the board for making such~~ 3210
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~~assessments and shall describe the basis for their~~ 3215
~~determination.~~ 3216

~~The board may reinstate a license or permit suspended~~ 3217
~~under this division after such demonstration and after the~~ 3218
~~individual has entered into a written consent agreement.~~ 3219

~~When the impaired respiratory care professional resumes~~ 3220
~~practice, the board shall require continued monitoring of the~~ 3221
~~respiratory care professional. The monitoring shall include~~ 3222
~~compliance with the written consent agreement entered into~~ 3223
~~before reinstatement or with conditions imposed by board order~~ 3224
~~after a hearing, and, upon termination of the consent agreement,~~ 3225
~~submission to the board for at least two years of annual written~~ 3226
~~progress reports made under penalty of falsification stating~~ 3227
~~whether the respiratory care professional has maintained~~ 3228
~~sobriety.~~ 3229

(H) For purposes of divisions (A) (2), (4), and (6) of this 3230
section, the commission of the act may be established by a 3231
finding by the board, pursuant to an adjudication under Chapter 3232
119. of the Revised Code, that the individual committed the act. 3233
The board does not have jurisdiction under those divisions if 3234
the trial court renders a final judgment in the individual's 3235
favor and that judgment is based upon an adjudication on the 3236
merits. The board has jurisdiction under those divisions if the 3237
trial court issues an order of dismissal upon technical or 3238
procedural grounds. 3239

(I) The sealing of conviction records by any court shall 3240
have no effect upon a prior board order entered under this 3241
section or upon the board's jurisdiction to take action under 3242
this section if, based upon a plea of guilty, a judicial finding 3243
of guilt, or a judicial finding of eligibility for intervention 3244

in lieu of conviction, the board issued a notice of opportunity 3245
for a hearing prior to the court's order to seal the records. 3246
The board shall not be required to seal, destroy, redact, or 3247
otherwise modify its records to reflect the court's sealing of 3248
conviction records. 3249

(J) If the board takes action under division (A) (1), (3), 3250
or (5) of this section, and the judicial finding of guilt, 3251
guilty plea, or judicial finding of eligibility for intervention 3252
in lieu of conviction is overturned on appeal, upon exhaustion 3253
of the criminal appeal, a petition for reconsideration of the 3254
order may be filed with the board along with appropriate court 3255
documents. Upon receipt of a petition for reconsideration and 3256
supporting court documents, the board shall reinstate the 3257
individual's license or permit. The board may then hold an 3258
adjudication under Chapter 119. of the Revised Code to determine 3259
whether the individual committed the act in question. Notice of 3260
an opportunity for a hearing shall be given in accordance with 3261
Chapter 119. of the Revised Code. If the board finds, pursuant 3262
to an adjudication held under this division, that the individual 3263
committed the act or if no hearing is requested, the board may 3264
order any of the sanctions identified under division (A) of this 3265
section. 3266

(K) The license or permit issued to an individual under 3267
this chapter and the individual's practice in this state are 3268
automatically suspended as of the date the individual pleads 3269
guilty to, is found by a judge or jury to be guilty of, or is 3270
subject to a judicial finding of eligibility for intervention in 3271
lieu of conviction in this state or treatment or intervention in 3272
lieu of conviction in another jurisdiction for any of the 3273
following criminal offenses in this state or a substantially 3274
equivalent criminal offense in another jurisdiction: aggravated 3275

murder, murder, voluntary manslaughter, felonious assault, 3276
kidnapping, rape, sexual battery, gross sexual imposition, 3277
aggravated arson, aggravated robbery, or aggravated burglary. 3278
Continued practice after suspension shall be considered 3279
practicing without a license or permit. 3280

The board shall notify the individual subject to the 3281
suspension by certified mail or in person in accordance with 3282
section 119.07 of the Revised Code. If an individual whose 3283
license or permit is automatically suspended under this division 3284
fails to make a timely request for an adjudication under Chapter 3285
119. of the Revised Code, the board shall enter a final order 3286
permanently revoking the individual's license or permit. 3287

(L) Notwithstanding any other provision of the Revised 3288
Code, all of the following apply: 3289

(1) The surrender of a license or permit issued under this 3290
chapter shall not be effective unless or until accepted by the 3291
board. A telephone conference call may be utilized for 3292
acceptance of the surrender of an individual's license or 3293
permit. The telephone conference call shall be considered a 3294
special meeting under division (F) of section 121.22 of the 3295
Revised Code. Reinstatement of a license or permit surrendered 3296
to the board requires an affirmative vote of not fewer than six 3297
members of the board. 3298

(2) An application for a license or permit made under the 3299
provisions of this chapter may not be withdrawn without approval 3300
of the board. 3301

(3) Failure by an individual to renew a license or permit 3302
in accordance with this chapter shall not remove or limit the 3303
board's jurisdiction to take any disciplinary action under this 3304

section against the individual. 3305

(4) At the request of the board, a license or permit 3306
holder shall immediately surrender to the board a license or 3307
permit that the board has suspended, revoked, or permanently 3308
revoked. 3309

Sec. 4761.091. (A) (1) If the holder of a license or 3310
limited permit issued under this chapter violates any section of 3311
this chapter, other than continuing education requirements set 3312
forth in section 4761.06 of the Revised Code, or violates any 3313
rule adopted under this chapter, the state medical board may, 3314
pursuant to an adjudication under Chapter 119. of the Revised 3315
Code and an affirmative vote of not fewer than six of its 3316
members, impose a civil penalty. The amount of the civil penalty 3317
shall be determined by the board in accordance with the 3318
guidelines adopted under division (A) (2) of this section. The 3319
civil penalty may be in addition to any other action the board 3320
may take under section 4761.09 of the Revised Code. 3321

(2) The board shall adopt and may amend guidelines 3322
regarding the amounts of civil penalties to be imposed under 3323
this section. Adoption or amendment of the guidelines requires 3324
the approval of not fewer than six board members. Under the 3325
guidelines, no civil penalty amount shall exceed twenty thousand 3326
dollars. 3327

(B) Amounts received from payment of civil penalties 3328
imposed under this section shall be deposited by the board in 3329
accordance with section 4731.24 of the Revised Code. Amounts 3330
received from payment of civil penalties imposed for violations 3331
of division (A) (18) of section 4761.09 of the Revised Code shall 3332
be used by the board solely for investigations, enforcement, and 3333
compliance monitoring. 3334

Sec. 4761.10. (A) No person shall offer or render 3335
respiratory care services, or represent that the person is a 3336
respiratory care professional, respiratory therapist, 3337
respiratory technologist, respiratory care technician, 3338
respiratory practitioner, inhalation therapist, inhalation 3339
technologist, or inhalation therapy technician, or to have any 3340
similar title or to provide these services under a similar 3341
description, unless the person holds a license or limited permit 3342
issued under this chapter. No partnership, association, or 3343
corporation shall advertise or otherwise offer to provide or 3344
convey the impression that it is providing respiratory care 3345
unless an individual holding a license or limited permit issued 3346
under this chapter is employed by or under contract with the 3347
partnership, association, or corporation and will be performing 3348
the respiratory care services to which reference is made. 3349

(B) Notwithstanding the provisions of division (A) of this 3350
section, all of the following apply: 3351

(1) In the case of a hospital or nursing facility, some 3352
limited aspects of respiratory care services such as measuring 3353
blood pressure and taking blood samples may be performed by 3354
persons demonstrating current competence in such procedures, as 3355
long as the person acts under the direction of a physician or 3356
the delegation of a registered nurse and the person does not 3357
represent that the person is engaged in the practice of 3358
respiratory care. The above limited aspects of respiratory care 3359
do not include any of the following: the administration of 3360
aerosol medication, the maintenance of patients on mechanical 3361
ventilators, aspiration, and the application and maintenance of 3362
artificial airways. 3363

(2) In the case of a facility, institution, or other 3364

setting that exists for a purpose substantially other than the 3365
provision of health care, if nursing tasks are delegated by a 3366
registered nurse as provided in Chapter 4723. of the Revised 3367
Code and the rules adopted under it, respiratory care tasks may 3368
be performed under that delegation by persons demonstrating 3369
current competence in performing the tasks, as long as the 3370
person does not represent that the person is engaged in the 3371
practice of respiratory care. 3372

(3) A polysomnographic technologist credentialed by an 3373
organization the state medical board recognizes, a trainee under 3374
the direct supervision of a polysomnographic technologist 3375
credentialed by an organization the board recognizes, or a 3376
person the board recognizes as being eligible to be credentialed 3377
as a polysomnographic technologist may perform the respiratory 3378
care tasks specified in rules adopted under section 4761.03 of 3379
the Revised Code, as long as both of the following apply: 3380

(a) The tasks are performed in the diagnosis and 3381
therapeutic intervention of sleep-related breathing disorders 3382
and under the general supervision of a physician. 3383

(b) The person performing the tasks does not represent 3384
that the person is engaged in the practice of respiratory care. 3385

~~(C) If the state medical board finds that any person, 3386
including any partnership, association, or corporation, has 3387
engaged or is engaging in any activity or conduct that is 3388
prohibited under division (A) of this section or rules of the 3389
board, or that is grounds for the denial, suspension, or 3390
permanent revocation of a person's license under section 4761.09 3391
of the Revised Code, it may apply to the court of common pleas 3392
in the county in which the violation occurred for an order 3393
restraining the unlawful activity or conduct, including the 3394~~

~~continued practice of respiratory care. Upon a showing that the~~ 3395
~~law or rule has been violated, or the person has engaged in~~ 3396
~~conduct constituting such grounds, the court may issue an~~ 3397
~~injunction or other appropriate restraining order.~~ The attorney 3398
general, the prosecuting attorney of any county in which the 3399
offense was committed or the offender resides, the state medical 3400
board, or any other person having knowledge of a person who 3401
either directly or by complicity is in violation of this 3402
section, may, in accordance with provisions of the Revised Code 3403
governing injunctions, maintain an action in the name of the 3404
state to enjoin any person from engaging either directly or by 3405
complicity in the unlawful activity by applying for an 3406
injunction in the Franklin county court of common pleas or any 3407
other court of competent jurisdiction. 3408

Prior to application for such injunction, the secretary of 3409
the state medical board shall notify the person allegedly 3410
engaged either directly or by complicity in the unlawful 3411
activity by registered mail that the secretary has received 3412
information indicating that this person is so engaged. The 3413
person shall answer the secretary within thirty days showing 3414
that the person is either properly licensed for the stated 3415
activity or that the person is not in violation of this chapter. 3416
If the answer is not forthcoming within thirty days after notice 3417
by the secretary, the secretary shall request that the attorney 3418
general, the prosecuting attorney of the county in which the 3419
offense was committed or the offender resides, or the state 3420
medical board proceed as authorized in this section. 3421

Upon the filing of a verified petition in court, the court 3422
shall conduct a hearing on the petition and shall give the same 3423
preference to this proceeding as is given all proceedings under 3424
Chapter 119. of the Revised Code, irrespective of the position 3425

of the proceeding on the calendar of the court. Injunction 3426
proceedings shall be in addition to, and not in lieu of, all 3427
penalties and other remedies provided under this chapter. 3428

Sec. 4761.11. (A) Nothing in this chapter shall be 3429
construed to prevent or restrict the practice, services, or 3430
activities of any person who: 3431

(1) Is a health care professional licensed by this state 3432
providing respiratory care services included in the scope of 3433
practice established by the license held, as long as the person 3434
does not represent that the person is engaged in the practice of 3435
respiratory care; 3436

(2) Is employed as a respiratory care professional by an 3437
agency of the United States government and provides respiratory 3438
care solely under the direction or control of the employing 3439
agency; 3440

(3) Is a student enrolled in a respiratory care education 3441
program approved by the state medical board leading to a 3442
certificate of completion in respiratory care and is performing 3443
duties that are part of a supervised course of study; 3444

~~(4) Is a nonresident of this state practicing or offering~~ 3445
~~to practice respiratory care, if the respiratory care services~~ 3446
~~are offered for not more than thirty days in a year, services~~ 3447
~~are provided under the supervision of a respiratory care~~ 3448
~~professional licensed under this chapter, and the nonresident~~ 3449
~~registers with the board in accordance with rules adopted by the~~ 3450
~~board under section 4761.03 of the Revised Code and meets either~~ 3451
~~of the following requirements:~~ 3452

~~(a) Qualifies for licensure under this chapter, except for~~ 3453
~~passage of the examination required under division (A) (3) of~~ 3454

~~section 4761.04 of the Revised Code;~~ 3455

~~(b) Holds a valid license issued by a state that has licensure requirements considered by the board to be comparable to those of this state and has not been issued a license in another state that has been revoked or is currently under suspension or on probation.~~ 3456
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~~(5) Provides respiratory care only to relatives or in medical emergencies;~~ 3461
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~~(6) Provides gratuitous care to friends or personal family members;~~ 3463
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~~(7) Provides only self care;~~ 3465

~~(8) Is employed in the office of a physician and renders medical assistance under the physician's direct supervision without representing that the person is engaged in the practice of respiratory care;~~ 3466
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~~(9) (5) Is employed in a clinical chemistry or arterial blood gas laboratory and is supervised by a physician without representing that the person is engaged in the practice of respiratory care;~~ 3470
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~~(10) (6) Is engaged in the practice of respiratory care as an employee of a person or governmental entity located in another state and provides respiratory care services for less than seventy-two hours to patients being transported into, out of, or through this state;~~ 3474
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~~(11) (7) Is employed as a certified hyperbaric technologist, has filed with the board a copy of the person's current certification as a hyperbaric technologist in accordance with the rules adopted by the board under section 4761.03 of the~~ 3479
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~~Revised Code, has paid the fee established pursuant to section-~~ 3483
~~4761.07 of the Revised Code,~~ and administers hyperbaric oxygen 3484
therapy under the direct supervision of a physician, a 3485
podiatrist acting in compliance with section 4731.511 of the 3486
Revised Code, a physician assistant, or an advanced practice 3487
registered nurse and without representing that the person is 3488
engaged in the practice of respiratory care. 3489

As used in division (A) (7) of this section: 3490

(a) "Certified hyperbaric technologist" means a person who 3491
is certified as a hyperbaric technologist by the national board 3492
of diving and hyperbaric medical technology or its successor 3493
organization. 3494

(b) "Hyperbaric oxygen therapy" means the administration 3495
of pure oxygen in a pressurized room or chamber, except that it 3496
does not include ventilator management. 3497

(B) Nothing in this chapter shall be construed to prevent 3498
any person from advertising, describing, or offering to provide 3499
respiratory care or billing for respiratory care when the 3500
respiratory care services are provided by a health care 3501
professional licensed by this state practicing within the scope 3502
of practice established by the license held. Nothing in this 3503
chapter shall be construed to prevent a hospital or nursing 3504
facility from advertising, describing, or offering to provide 3505
respiratory care, or billing for respiratory care rendered by a 3506
person licensed under this chapter or persons who may provide 3507
limited aspects of respiratory care or respiratory care tasks 3508
pursuant to division (B) of section 4761.10 of the Revised Code. 3509

(C) Notwithstanding division (A) of section 4761.10 of the 3510
Revised Code, in a life-threatening situation, in the absence of 3511

licensed personnel, unlicensed persons shall not be prohibited 3512
from taking life-saving measures. 3513

(D) Nothing in this chapter shall be construed as 3514
authorizing a respiratory care professional to practice medicine 3515
and surgery or osteopathic medicine and surgery. This division 3516
does not prohibit a respiratory care professional from 3517
administering topical or intradermal medications for the purpose 3518
of producing localized decreased sensation as part of a 3519
procedure or task that is within the scope of practice of a 3520
respiratory care professional. 3521

Sec. 4761.14. An employer that disciplines or terminates 3522
the employment of a respiratory care professional or individual 3523
holding a limited permit issued under this chapter because of 3524
conduct that would be grounds for disciplinary action under 3525
section 4761.09 of the Revised Code shall, not later than sixty 3526
days after the discipline or termination, report the action to 3527
the state medical board. The report shall state the name of the 3528
respiratory care professional or individual holding the limited 3529
permit and the reason the employer took the action. If an 3530
employer fails to report to the board, the board may seek an 3531
order from a the Franklin county court of common pleas, or any 3532
other court of competent jurisdiction, compelling submission of 3533
the report. 3534

Sec. 4761.19. A respiratory care professional, 3535
professional association or society of respiratory care 3536
professionals, physician, or professional association or society 3537
of physicians that believes a violation of division (A) (18) of 3538
section 4761.09 of the Revised Code has occurred shall report 3539
the information upon which the belief is based to the monitoring 3540
organization conducting the program established by the state 3541

medical board under section 4731.251 of the Revised Code. If any 3542
such report is made to the board, it shall be referred to the 3543
monitoring organization unless the board is aware that the 3544
individual who is the subject of the report does not meet the 3545
program eligibility requirements of section 4731.252 of the 3546
Revised Code. 3547

An individual or entity that reports to the board, reports 3548
to the monitoring organization described in section 4731.251 of 3549
the Revised Code, or refers an impaired respiratory care 3550
professional to a treatment provider approved by the board under 3551
section 4731.25 of the Revised Code shall not be subject to suit 3552
for civil damages as a result of the report, referral, or 3553
provision of the information. 3554

In the absence of fraud or bad faith, a professional 3555
association or society of respiratory care professionals that 3556
sponsors a committee or program to provide peer assistance to a 3557
respiratory care professional with substance abuse problems, a 3558
representative or agent of such a committee or program, a 3559
representative or agent of the monitoring organization described 3560
in section 4731.251 of the Revised Code, and a member of the 3561
state medical board shall not be held liable in damages to any 3562
person by reason of actions taken to refer a respiratory care 3563
professional to a treatment provider approved under section 3564
4731.25 of the Revised Code for examination or treatment. 3565

Sec. 4762.14. (A) The state medical board shall 3566
investigate evidence that appears to show that any person has 3567
violated this chapter or the rules adopted under it. Any person 3568
may report to the board in a signed writing any information the 3569
person has that appears to show a violation of any provision of 3570
this chapter or the rules adopted under it. In the absence of 3571

bad faith, a person who reports such information or testifies 3572
before the board in an adjudication conducted under Chapter 119. 3573
of the Revised Code shall not be liable for civil damages as a 3574
result of reporting the information or providing testimony. Each 3575
complaint or allegation of a violation received by the board 3576
shall be assigned a case number and be recorded by the board. 3577

(B) Investigations of alleged violations of this chapter 3578
or rules adopted under it shall be supervised by the supervising 3579
member elected by the board in accordance with section 4731.02 3580
of the Revised Code and by the secretary as provided in section 3581
4762.17 of the Revised Code. The board's president may designate 3582
another member of the board to supervise the investigation in 3583
place of the supervising member. A member of the board who 3584
supervises the investigation of a case shall not participate in 3585
further adjudication of the case. 3586

(C) In investigating a possible violation of this chapter 3587
or the rules adopted under it, the board may administer oaths, 3588
order the taking of depositions, issue subpoenas, and compel the 3589
attendance of witnesses and production of books, accounts, 3590
papers, records, documents, and testimony, except that a 3591
subpoena for patient record information shall not be issued 3592
without consultation with the attorney general's office and 3593
approval of the secretary and supervising member of the board. 3594
Before issuance of a subpoena for patient record information, 3595
the secretary and supervising member shall determine whether 3596
there is probable cause to believe that the complaint filed 3597
alleges a violation of this chapter or the rules adopted under 3598
it and that the records sought are relevant to the alleged 3599
violation and material to the investigation. The subpoena may 3600
apply only to records that cover a reasonable period of time 3601
surrounding the alleged violation. 3602

On failure to comply with any subpoena issued by the board 3603
and after reasonable notice to the person being subpoenaed, the 3604
board may move for an order compelling the production of persons 3605
or records pursuant to the Rules of Civil Procedure. 3606

A subpoena issued by the board may be served by a sheriff, 3607
the sheriff's deputy, or a board employee designated by the 3608
board. Service of a subpoena issued by the board may be made by 3609
delivering a copy of the subpoena to the person named therein, 3610
reading it to the person, or leaving it at the person's usual 3611
place of residence. When the person being served is an oriental 3612
medicine practitioner or acupuncturist, service of the subpoena 3613
may be made by certified mail, restricted delivery, return 3614
receipt requested, and the subpoena shall be deemed served on 3615
the date delivery is made or the date the person refuses to 3616
accept delivery. 3617

A sheriff's deputy who serves a subpoena shall receive the 3618
same fees as a sheriff. Each witness who appears before the 3619
board in obedience to a subpoena shall receive the fees and 3620
mileage provided for under section 119.094 of the Revised Code. 3621

(D) All hearings and investigations of the board shall be 3622
considered civil actions for the purposes of section 2305.252 of 3623
the Revised Code. 3624

(E) Information received by the board pursuant to an 3625
investigation is confidential and not subject to discovery in 3626
any civil action. 3627

The board shall conduct all investigations and proceedings 3628
in a manner that protects the confidentiality of patients and 3629
persons who file complaints with the board. The board shall not 3630
make public the names or any other identifying information about 3631

patients or complainants unless proper consent is given. 3632

The board may share any information it receives pursuant 3633
to an investigation, including patient records and patient 3634
record information, with law enforcement agencies, other 3635
licensing boards, and other governmental agencies that are 3636
prosecuting, adjudicating, or investigating alleged violations 3637
of statutes or administrative rules. An agency or board that 3638
receives the information shall comply with the same requirements 3639
regarding confidentiality as those with which the state medical 3640
board must comply, notwithstanding any conflicting provision of 3641
the Revised Code or procedure of the agency or board that 3642
applies when it is dealing with other information in its 3643
possession. In a judicial proceeding, the information may be 3644
admitted into evidence only in accordance with the Rules of 3645
Evidence, but the court shall require that appropriate measures 3646
are taken to ensure that confidentiality is maintained with 3647
respect to any part of the information that contains names or 3648
other identifying information about patients or complainants 3649
whose confidentiality was protected by the state medical board 3650
when the information was in the board's possession. Measures to 3651
ensure confidentiality that may be taken by the court include 3652
sealing its records or deleting specific information from its 3653
records. 3654

(F) The state medical board shall develop requirements for 3655
and provide appropriate initial training and continuing 3656
education for investigators employed by the board to carry out 3657
its duties under this chapter. The training and continuing 3658
education may include enrollment in courses operated or approved 3659
by the Ohio peace officer training ~~council~~ commission that the 3660
board considers appropriate under conditions set forth in 3661
section 109.79 of the Revised Code. 3662

(G) On a quarterly basis, the board shall prepare a report 3663
that documents the disposition of all cases during the preceding 3664
three months. The report shall contain the following information 3665
for each case with which the board has completed its activities: 3666

(1) The case number assigned to the complaint or alleged 3667
violation; 3668

(2) The type of certificate to practice, if any, held by 3669
the individual against whom the complaint is directed; 3670

(3) A description of the allegations contained in the 3671
complaint; 3672

(4) The disposition of the case. 3673

The report shall state how many cases are still pending, 3674
and shall be prepared in a manner that protects the identity of 3675
each person involved in each case. The report is a public record 3676
for purposes of section 149.43 of the Revised Code. 3677

Sec. 4762.16. (A) Within sixty days after the imposition 3678
of any formal disciplinary action taken by any health care 3679
facility, including a hospital, health care facility operated by 3680
a health insuring corporation, ambulatory surgical center, or 3681
similar facility, against any individual holding a valid 3682
certificate to practice as an oriental medicine practitioner or 3683
valid certificate to practice as an acupuncturist, the chief 3684
administrator or executive officer of the facility shall report 3685
to the state medical board the name of the individual, the 3686
action taken by the facility, and a summary of the underlying 3687
facts leading to the action taken. Upon request, the board shall 3688
be provided certified copies of the patient records that were 3689
the basis for the facility's action. Prior to release to the 3690
board, the summary shall be approved by the peer review 3691

committee that reviewed the case or by the governing board of 3692
the facility. 3693

The filing of a report with the board or decision not to 3694
file a report, investigation by the board, or any disciplinary 3695
action taken by the board, does not preclude a health care 3696
facility from taking disciplinary action against an oriental 3697
medicine practitioner or acupuncturist. 3698

In the absence of fraud or bad faith, no individual or 3699
entity that provides patient records to the board shall be 3700
liable in damages to any person as a result of providing the 3701
records. 3702

~~(B) An (1) Except as provided in division (B) (2) of this 3703
section, an oriental medicine practitioner or acupuncturist, 3704
professional association or society of oriental medicine 3705
practitioners or acupuncturists, physician, or professional 3706
association or society of physicians that believes a violation 3707
of any provision of this chapter, Chapter 4731. of the Revised 3708
Code, or rule of the board has occurred shall report to the 3709
board the information upon which the belief is based. ~~This~~ 3710
~~division does not require any treatment provider approved by the~~ 3711
~~board under section 4731.25 of the Revised Code or any employee,~~ 3712
~~agent, or representative of such a provider to make reports with~~ 3713
~~respect to an oriental medicine practitioner or acupuncturist~~ 3714
~~participating in treatment or aftercare for substance abuse as~~ 3715
~~long as the practitioner or acupuncturist maintains~~ 3716
~~participation in accordance with the requirements of section~~ 3717
~~4731.25 of the Revised Code and the treatment provider or~~ 3718
~~employee, agent, or representative of the provider has no reason~~ 3719
~~to believe that the practitioner or acupuncturist has violated~~ 3720
~~any provision of this chapter or rule adopted under it, other~~ 3721~~

~~than being impaired by alcohol, drugs, or other substances. This 3722~~
~~division does not require reporting by any member of an impaired 3723~~
~~practitioner committee established by a health care facility or 3724~~
~~by any representative or agent of a committee or program 3725~~
~~sponsored by a professional association or society of oriental 3726~~
~~medicine practitioners or acupuncturists to provide peer 3727~~
~~assistance to oriental medicine practitioners or acupuncturists 3728~~
~~with substance abuse problems with respect to an oriental 3729~~
~~medicine practitioner or acupuncturist who has been referred for 3730~~
~~examination to a treatment program approved by the board under 3731~~
~~section 4731.25 of the Revised Code if the individual cooperates 3732~~
~~with the referral for examination and with any determination 3733~~
~~that the individual should enter treatment and as long as the 3734~~
~~committee member, representative, or agent has no reason to 3735~~
~~believe that the individual has ceased to participate in the 3736~~
~~treatment program in accordance with section 4731.25 of the 3737~~
~~Revised Code or has violated any provision of this chapter or 3738~~
~~rule adopted under it, other than being impaired by alcohol, 3739~~
~~drugs, or other substances. 3740~~

(2) An oriental medicine practitioner or acupuncturist, 3741
professional association or society of oriental medicine 3742
practitioners or acupuncturists, physician, or professional 3743
association or society of physicians that believes a violation 3744
of division (B) (6) of section 4762.13 of the Revised Code has 3745
occurred shall report the information upon which the belief is 3746
based to the monitoring organization conducting the program 3747
established by the board under section 4731.251 of the Revised 3748
Code. If any such report is made to the board, it shall be 3749
referred to the monitoring organization unless the board is 3750
aware that the individual who is the subject of the report does 3751
not meet the program eligibility requirements of section 3752

4731.252 of the Revised Code. 3753

(C) Any professional association or society composed 3754
primarily of oriental medicine practitioners or acupuncturists 3755
that suspends or revokes an individual's membership for 3756
violations of professional ethics, or for reasons of 3757
professional incompetence or professional malpractice, within 3758
sixty days after a final decision, shall report to the board, on 3759
forms prescribed and provided by the board, the name of the 3760
individual, the action taken by the professional organization, 3761
and a summary of the underlying facts leading to the action 3762
taken. 3763

The filing of a report with the board or decision not to 3764
file a report, investigation by the board, or any disciplinary 3765
action taken by the board, does not preclude a professional 3766
organization from taking disciplinary action against an 3767
individual. 3768

(D) Any insurer providing professional liability insurance 3769
to any person holding a valid certificate to practice as an 3770
oriental medicine practitioner or valid certificate to practice 3771
as an acupuncturist or any other entity that seeks to indemnify 3772
the professional liability of an oriental medicine practitioner 3773
or acupuncturist shall notify the board within thirty days after 3774
the final disposition of any written claim for damages where 3775
such disposition results in a payment exceeding twenty-five 3776
thousand dollars. The notice shall contain the following 3777
information: 3778

(1) The name and address of the person submitting the 3779
notification; 3780

(2) The name and address of the insured who is the subject 3781

of the claim; 3782

(3) The name of the person filing the written claim; 3783

(4) The date of final disposition; 3784

(5) If applicable, the identity of the court in which the 3785
final disposition of the claim took place. 3786

(E) The board may investigate possible violations of this 3787
chapter or the rules adopted under it that are brought to its 3788
attention as a result of the reporting requirements of this 3789
section, except that the board shall conduct an investigation if 3790
a possible violation involves repeated malpractice. As used in 3791
this division, "repeated malpractice" means three or more claims 3792
for malpractice within the previous five-year period, each 3793
resulting in a judgment or settlement in excess of twenty-five 3794
thousand dollars in favor of the claimant, and each involving 3795
negligent conduct by the oriental medicine practitioner or 3796
acupuncturist. 3797

(F) All summaries, reports, and records received and 3798
maintained by the board pursuant to this section shall be held 3799
in confidence and shall not be subject to discovery or 3800
introduction in evidence in any federal or state civil action 3801
involving an oriental medicine practitioner, acupuncturist, 3802
supervising physician, or health care facility arising out of 3803
matters that are the subject of the reporting required by this 3804
section. The board may use the information obtained only as the 3805
basis for an investigation, as evidence in a disciplinary 3806
hearing against an oriental medicine practitioner, 3807
acupuncturist, or supervising physician, or in any subsequent 3808
trial or appeal of a board action or order. 3809

The board may disclose the summaries and reports it 3810

receives under this section only to health care facility 3811
committees within or outside this state that are involved in 3812
credentialing or recredentialing an oriental medicine 3813
practitioner, acupuncturist, or supervising physician or 3814
reviewing their privilege to practice within a particular 3815
facility. The board shall indicate whether or not the 3816
information has been verified. Information transmitted by the 3817
board shall be subject to the same confidentiality provisions as 3818
when maintained by the board. 3819

(G) Except for reports filed by an individual pursuant to 3820
division (B) of this section, the board shall send a copy of any 3821
reports or summaries it receives pursuant to this section to the 3822
acupuncturist. The oriental medicine practitioner or 3823
acupuncturist shall have the right to file a statement with the 3824
board concerning the correctness or relevance of the 3825
information. The statement shall at all times accompany that 3826
part of the record in contention. 3827

(H) An individual or entity that reports to the board, 3828
reports to the monitoring organization described in section 3829
4731.251 of the Revised Code, or refers an impaired oriental 3830
medicine practitioner or impaired acupuncturist to a treatment 3831
provider approved by the board under section 4731.25 of the 3832
Revised Code shall not be subject to suit for civil damages as a 3833
result of the report, referral, or provision of the information. 3834

(I) In the absence of fraud or bad faith, a professional 3835
association or society of oriental medicine practitioners or 3836
acupuncturists that sponsors a committee or program to provide 3837
peer assistance to an oriental medicine practitioner or 3838
acupuncturist with substance abuse problems, a representative or 3839
agent of such a committee or program, a representative or agent 3840

of the monitoring organization described in section 4731.251 of 3841
the Revised Code, and a member of the state medical board shall 3842
not be held liable in damages to any person by reason of actions 3843
taken to refer an oriental medicine practitioner or 3844
acupuncturist to a treatment provider approved under section 3845
4731.25 of the Revised Code for examination or treatment. 3846

Sec. 4774.01. As used in this chapter: 3847

(A) "Radiologist assistant" means an individual who 3848
assists a radiologist in the care of radiology patients by 3849
engaging in any of the activities authorized under section 3850
4774.08 of the Revised Code. 3851

(B) "Radiologist" means a physician who has successfully 3852
completed an approved radiology training program, as specified 3853
in the accreditation requirements that must be met to qualify as 3854
graduate medical education ~~under~~, as defined in section 3855
~~4731.091-4731.04~~ of the Revised Code. 3856

(C) "Radiology" means the branch of medicine that deals 3857
with the use of radiation in diagnosis and treatment of disease 3858
or conditions. 3859

(D) "Physician" means an individual authorized under 3860
Chapter 4731. of the Revised Code to practice medicine and 3861
surgery or osteopathic medicine and surgery. 3862

(E) "General anesthesia," "deep sedation," "moderate 3863
sedation," and "minimal sedation" have the meanings specified by 3864
the state medical board in rules adopted under section 4774.11 3865
of the Revised Code. 3866

Sec. 4774.14. (A) The state medical board shall 3867
investigate evidence that appears to show that any person has 3868
violated this chapter or the rules adopted under it. Any person 3869

may report to the board in a signed writing any information the 3870
person has that appears to show a violation of any provision of 3871
this chapter or the rules adopted under it. In the absence of 3872
bad faith, a person who reports such information or testifies 3873
before the board in an adjudication conducted under Chapter 119. 3874
of the Revised Code shall not be liable for civil damages as a 3875
result of reporting the information or providing testimony. Each 3876
complaint or allegation of a violation received by the board 3877
shall be assigned a case number and be recorded by the board. 3878

(B) Investigations of alleged violations of this chapter 3879
or rules adopted under it shall be supervised by the supervising 3880
member elected by the board in accordance with section 4731.02 3881
of the Revised Code and by the secretary as provided in section 3882
4774.17 of the Revised Code. The board's president may designate 3883
another member of the board to supervise the investigation in 3884
place of the supervising member. A member of the board who 3885
supervises the investigation of a case shall not participate in 3886
further adjudication of the case. 3887

(C) In investigating a possible violation of this chapter 3888
or the rules adopted under it, the board may administer oaths, 3889
order the taking of depositions, issue subpoenas, and compel the 3890
attendance of witnesses and production of books, accounts, 3891
papers, records, documents, and testimony, except that a 3892
subpoena for patient record information shall not be issued 3893
without consultation with the attorney general's office and 3894
approval of the secretary and supervising member of the board. 3895
Before issuance of a subpoena for patient record information, 3896
the secretary and supervising member shall determine whether 3897
there is probable cause to believe that the complaint filed 3898
alleges a violation of this chapter or the rules adopted under 3899
it and that the records sought are relevant to the alleged 3900

violation and material to the investigation. The subpoena may 3901
apply only to records that cover a reasonable period of time 3902
surrounding the alleged violation. 3903

On failure to comply with any subpoena issued by the board 3904
and after reasonable notice to the person being subpoenaed, the 3905
board may move for an order compelling the production of persons 3906
or records pursuant to the Rules of Civil Procedure. 3907

A subpoena issued by the board may be served by a sheriff, 3908
the sheriff's deputy, or a board employee designated by the 3909
board. Service of a subpoena issued by the board may be made by 3910
delivering a copy of the subpoena to the person named therein, 3911
reading it to the person, or leaving it at the person's usual 3912
place of residence. When the person being served is a 3913
radiologist assistant, service of the subpoena may be made by 3914
certified mail, restricted delivery, return receipt requested, 3915
and the subpoena shall be deemed served on the date delivery is 3916
made or the date the person refuses to accept delivery. 3917

A sheriff's deputy who serves a subpoena shall receive the 3918
same fees as a sheriff. Each witness who appears before the 3919
board in obedience to a subpoena shall receive the fees and 3920
mileage provided for witnesses in civil cases in the courts of 3921
common pleas. 3922

(D) All hearings and investigations of the board shall be 3923
considered civil actions for the purposes of section 2305.252 of 3924
the Revised Code. 3925

(E) Information received by the board pursuant to an 3926
investigation is confidential and not subject to discovery in 3927
any civil action. 3928

The board shall conduct all investigations and proceedings 3929

in a manner that protects the confidentiality of patients and 3930
persons who file complaints with the board. The board shall not 3931
make public the names or any other identifying information about 3932
patients or complainants unless proper consent is given. 3933

The board may share any information it receives pursuant 3934
to an investigation, including patient records and patient 3935
record information, with law enforcement agencies, other 3936
licensing boards, and other governmental agencies that are 3937
prosecuting, adjudicating, or investigating alleged violations 3938
of statutes or administrative rules. An agency or board that 3939
receives the information shall comply with the same requirements 3940
regarding confidentiality as those with which the state medical 3941
board must comply, notwithstanding any conflicting provision of 3942
the Revised Code or procedure of the agency or board that 3943
applies when it is dealing with other information in its 3944
possession. In a judicial proceeding, the information may be 3945
admitted into evidence only in accordance with the Rules of 3946
Evidence, but the court shall require that appropriate measures 3947
are taken to ensure that confidentiality is maintained with 3948
respect to any part of the information that contains names or 3949
other identifying information about patients or complainants 3950
whose confidentiality was protected by the state medical board 3951
when the information was in the board's possession. Measures to 3952
ensure confidentiality that may be taken by the court include 3953
sealing its records or deleting specific information from its 3954
records. 3955

(F) The state medical board shall develop requirements for 3956
and provide appropriate initial training and continuing 3957
education for investigators employed by the board to carry out 3958
its duties under this chapter. The training and continuing 3959
education may include enrollment in courses operated or approved 3960

by the Ohio peace officer training ~~council~~commission that the 3961
board considers appropriate under conditions set forth in 3962
section 109.79 of the Revised Code. 3963

(G) On a quarterly basis, the board shall prepare a report 3964
that documents the disposition of all cases during the preceding 3965
three months. The report shall contain the following information 3966
for each case with which the board has completed its activities: 3967

(1) The case number assigned to the complaint or alleged 3968
violation; 3969

(2) The type of certificate, if any, held by the 3970
individual against whom the complaint is directed; 3971

(3) A description of the allegations contained in the 3972
complaint; 3973

(4) The disposition of the case. 3974

The report shall state how many cases are still pending, 3975
and shall be prepared in a manner that protects the identity of 3976
each person involved in each case. The report is a public record 3977
for purposes of section 149.43 of the Revised Code. 3978

Sec. 4774.16. (A) Within sixty days after the imposition 3979
of any formal disciplinary action taken by any health care 3980
facility, including a hospital, health care facility operated by 3981
a health insuring corporation, ambulatory surgical facility, or 3982
similar facility, against any individual holding a valid 3983
certificate to practice as a radiologist assistant, the chief 3984
administrator or executive officer of the facility shall report 3985
to the state medical board the name of the individual, the 3986
action taken by the facility, and a summary of the underlying 3987
facts leading to the action taken. On request, the board shall 3988
be provided certified copies of the patient records that were 3989

the basis for the facility's action. Prior to release to the 3990
board, the summary shall be approved by the peer review 3991
committee that reviewed the case or by the governing board of 3992
the facility. 3993

The filing of a report with the board or decision not to 3994
file a report, investigation by the board, or any disciplinary 3995
action taken by the board, does not preclude a health care 3996
facility from taking disciplinary action against a radiologist 3997
assistant. 3998

In the absence of fraud or bad faith, no individual or 3999
entity that provides patient records to the board shall be 4000
liable in damages to any person as a result of providing the 4001
records. 4002

~~(B) A(1) Except as provided in division (B)(2) of this 4003
section, a radiologist assistant, professional association or 4004
society of radiologist assistants, physician, or professional 4005
association or society of physicians that believes a violation 4006
of any provision of this chapter, Chapter 4731. of the Revised 4007
Code, or rule of the board has occurred shall report to the 4008
board the information on which the belief is based. ~~This 4009
division does not require any treatment provider approved by the 4010
board under section 4731.25 of the Revised Code or any employee, 4011
agent, or representative of such a provider to make reports with 4012
respect to a radiologist assistant participating in treatment or 4013
aftercare for substance abuse as long as the radiologist 4014
assistant maintains participation in accordance with the 4015
requirements of section 4731.25 of the Revised Code and the 4016
treatment provider or employee, agent, or representative of the 4017
provider has no reason to believe that the radiologist assistant 4018
has violated any provision of this chapter or rule adopted under 4019~~~~

~~it, other than being impaired by alcohol, drugs, or other
substances. This division does not require reporting by any
member of an impaired practitioner committee established by a
health care facility or by any representative or agent of a
committee or program sponsored by a professional association or
society of radiologist assistants to provide peer assistance to
radiologist assistants with substance abuse problems with
respect to a radiologist assistant who has been referred for
examination to a treatment program approved by the board under
section 4731.25 of the Revised Code if the radiologist assistant
cooperates with the referral for examination and with any
determination that the radiologist assistant should enter
treatment and as long as the committee member, representative,
or agent has no reason to believe that the radiologist assistant
has ceased to participate in the treatment program in accordance
with section 4731.25 of the Revised Code or has violated any
provision of this chapter or rule adopted under it, other than
being impaired by alcohol, drugs, or other substances.~~

(2) A radiologist assistant, professional association or
society of radiologist assistants, physician, or professional
association or society of physicians that believes a violation
of division (B) (6) of section 4774.13 of the Revised Code has
occurred shall report the information upon which the belief is
based to the monitoring organization conducting the program
established by the board under section 4731.251 of the Revised
Code. If any such report is made to the board, it shall be
referred to the monitoring organization unless the board is
aware that the individual who is the subject of the report does
not meet the program eligibility requirements of section
4731.252 of the Revised Code.

(C) Any professional association or society composed

primarily of radiologist assistants that suspends or revokes an 4051
individual's membership for violations of professional ethics, 4052
or for reasons of professional incompetence or professional 4053
malpractice, within sixty days after a final decision, shall 4054
report to the board, on forms prescribed and provided by the 4055
board, the name of the individual, the action taken by the 4056
professional organization, and a summary of the underlying facts 4057
leading to the action taken. 4058

The filing of a report with the board or decision not to 4059
file a report, investigation by the board, or any disciplinary 4060
action taken by the board, does not preclude a professional 4061
organization from taking disciplinary action against a 4062
radiologist assistant. 4063

(D) Any insurer providing professional liability insurance 4064
to any person holding a valid certificate to practice as a 4065
radiologist assistant or any other entity that seeks to 4066
indemnify the professional liability of a radiologist assistant 4067
shall notify the board within thirty days after the final 4068
disposition of any written claim for damages where such 4069
disposition results in a payment exceeding twenty-five thousand 4070
dollars. The notice shall contain the following information: 4071

(1) The name and address of the person submitting the 4072
notification; 4073

(2) The name and address of the insured who is the subject 4074
of the claim; 4075

(3) The name of the person filing the written claim; 4076

(4) The date of final disposition; 4077

(5) If applicable, the identity of the court in which the 4078
final disposition of the claim took place. 4079

(E) The board may investigate possible violations of this 4080
chapter or the rules adopted under it that are brought to its 4081
attention as a result of the reporting requirements of this 4082
section, except that the board shall conduct an investigation if 4083
a possible violation involves repeated malpractice. As used in 4084
this division, "repeated malpractice" means three or more claims 4085
for malpractice within the previous five-year period, each 4086
resulting in a judgment or settlement in excess of twenty-five 4087
thousand dollars in favor of the claimant, and each involving 4088
negligent conduct by the radiologist assistant. 4089

(F) All summaries, reports, and records received and 4090
maintained by the board pursuant to this section shall be held 4091
in confidence and shall not be subject to discovery or 4092
introduction in evidence in any federal or state civil action 4093
involving a radiologist assistant, supervising physician, or 4094
health care facility arising out of matters that are the subject 4095
of the reporting required by this section. The board may use the 4096
information obtained only as the basis for an investigation, as 4097
evidence in a disciplinary hearing against a radiologist 4098
assistant or supervising radiologist, or in any subsequent trial 4099
or appeal of a board action or order. 4100

The board may disclose the summaries and reports it 4101
receives under this section only to health care facility 4102
committees within or outside this state that are involved in 4103
credentialing or recredentialing a radiologist assistant or 4104
supervising radiologist or reviewing their privilege to practice 4105
within a particular facility. The board shall indicate whether 4106
or not the information has been verified. Information 4107
transmitted by the board shall be subject to the same 4108
confidentiality provisions as when maintained by the board. 4109

(G) Except for reports filed by an individual pursuant to 4110
division (B) of this section, the board shall send a copy of any 4111
reports or summaries it receives pursuant to this section to the 4112
radiologist assistant. The radiologist assistant shall have the 4113
right to file a statement with the board concerning the 4114
correctness or relevance of the information. The statement shall 4115
at all times accompany that part of the record in contention. 4116

(H) An individual or entity that reports to the board, 4117
reports to the monitoring organization described in section 4118
4731.251 of the Revised Code, or refers an impaired radiologist 4119
assistant to a treatment provider approved by the board under 4120
section 4731.25 of the Revised Code shall not be subject to suit 4121
for civil damages as a result of the report, referral, or 4122
provision of the information. 4123

(I) In the absence of fraud or bad faith, a professional 4124
association or society of radiologist assistants that sponsors a 4125
committee or program to provide peer assistance to a radiologist 4126
assistant with substance abuse problems, a representative or 4127
agent of such a committee or program, a representative or agent 4128
of the monitoring organization described in section 4731.251 of 4129
the Revised Code, and a member of the state medical board shall 4130
not be held liable in damages to any person by reason of actions 4131
taken to refer a radiologist assistant to a treatment provider 4132
approved under section 4731.25 of the Revised Code for 4133
examination or treatment. 4134

Sec. 4778.17. A genetic counselor, professional 4135
association or society of genetic counselors, physician, or 4136
professional association or society of physicians that believes 4137
a violation of division (B) (6) of section 4778.14 of the Revised 4138
Code has occurred shall report the information upon which the 4139

belief is based to the monitoring organization conducting the 4140
program established by the state medical board under section 4141
4731.251 of the Revised Code. If any such report is made to the 4142
board, it shall be referred to the monitoring organization 4143
unless the board is aware that the individual who is the subject 4144
of the report does not meet the program eligibility requirements 4145
of section 4731.252 of the Revised Code. 4146

An individual or entity that reports to the board, reports 4147
to the monitoring organization described in section 4731.251 of 4148
the Revised Code, or refers an impaired genetic counselor to a 4149
treatment provider approved by the board under section 4731.25 4150
of the Revised Code shall not be subject to suit for civil 4151
damages as a result of the report, referral, or provision of the 4152
information. 4153

In the absence of fraud or bad faith, a professional 4154
association or society of genetic counselors that sponsors a 4155
committee or program to provide peer assistance to a genetic 4156
counselor with substance abuse problems, a representative or 4157
agent of such a committee or program, a representative or agent 4158
of the monitoring organization described in section 4731.251 of 4159
the Revised Code, and a member of the state medical board shall 4160
not be held liable in damages to any person by reason of actions 4161
taken to refer a genetic counselor to a treatment provider 4162
approved under section 4731.25 of the Revised Code for 4163
examination or treatment. 4164

Sec. 5167.01. As used in this chapter: 4165

(A) "Controlled substance" has the same meaning as in 4166
section 3719.01 of the Revised Code. 4167

(B) "Dual eligible individual" has the same meaning as in 4168

section 5160.01 of the Revised Code. 4169

(C) "Emergency services" has the same meaning as in the 4170
"Social Security Act," section 1932(b)(2), 42 U.S.C. 1396u-2(b) 4171
(2). 4172

(D) ~~"Home and community-based services medicaid waiver~~ 4173
~~component"~~ "ICDS participant" has the same meaning as in section 4174
~~5166.01-5164.01~~ of the Revised Code. 4175

(E) "Medicaid managed care organization" means a managed 4176
care organization under contract with the department of medicaid 4177
pursuant to section 5167.10 of the Revised Code. 4178

(F) "Medicaid waiver component" has the same meaning as in 4179
section 5166.01 of the Revised Code. 4180

(G) "Nursing facility services" has the same meaning as in 4181
section 5165.01 of the Revised Code. 4182

(H) "Prescribed drug" has the same meaning as in section 4183
5164.01 of the Revised Code. 4184

(I) "Provider" means any person or government entity that 4185
furnishes services to a medicaid recipient enrolled in a 4186
medicaid managed care organization, regardless of whether the 4187
person or entity has a provider agreement. 4188

(J) "Provider agreement" has the same meaning as in 4189
section 5164.01 of the Revised Code. 4190

Sec. 5167.03. As part of the medicaid program, the 4191
department of medicaid shall establish a care management system. 4192
The department shall implement the system in some or all 4193
counties. 4194

The department shall designate the medicaid recipients who 4195

are required or permitted to participate in the care management 4196
system. Those who shall be required to participate in the system 4197
include medicaid recipients who receive cognitive behavioral 4198
therapy as described in division (A) (2) of section 5167.16 of 4199
the Revised Code. Except as provided in section 5166.406 of the 4200
Revised Code, no medicaid recipient participating in the healthy 4201
Ohio program established under section 5166.40 of the Revised 4202
Code shall participate in the ~~care management~~ system. 4203

The general assembly's authorization through the enactment 4204
of legislation is needed before home and community-based 4205
services available under a medicaid waiver component or nursing 4206
facility services are included in the care management system, 4207
except that ICDS participants may be required or permitted to 4208
obtain such services under the system. Medicaid recipients who 4209
receive such services may be designated for voluntary or 4210
mandatory participation in the system in order to receive other 4211
health care services included in the system. 4212

The department may require or permit participants in the 4213
care management system to obtain health care services from 4214
providers designated by the department. The department may 4215
require or permit participants to obtain health care services 4216
through medicaid managed care organizations. 4217

Section 2. That existing sections 4730.26, 4730.32, 4218
4731.224, 4731.24, 4731.25, 4731.291, 4731.573, 4759.02, 4219
4759.05, 4759.051, 4759.06, 4759.07, 4759.08, 4759.10, 4760.01, 4220
4760.14, 4760.16, 4761.01, 4761.03, 4761.032, 4761.04, 4761.05, 4221
4761.06, 4761.07, 4761.09, 4761.10, 4761.11, 4761.14, 4762.14, 4222
4762.16, 4774.01, 4774.14, 4774.16, 5167.01, and 5167.03 and 4223
sections 4761.031 and 4761.08 of the Revised Code are hereby 4224
repealed. 4225

Section 3. A dietitian whose license to practice dietetics 4226
under Chapter 4759. of the Revised Code was placed in inactive 4227
status before the effective date of this section shall, not 4228
later than June 30, 2018, have the dietitian's license placed in 4229
active status by meeting the continuing education requirements 4230
established in rules adopted under section 4759.05 of the 4231
Revised Code, as amended by this act, and paying the license 4232
renewal fee specified in section 4759.08 of the Revised Code, as 4233
amended by this act. A dietitian's inactive license that is not 4234
placed in active status by June 30, 2018, shall be considered 4235
expired. 4236

Section 4. A respiratory care professional whose license 4237
to practice respiratory care under Chapter 4761. of the Revised 4238
Code was placed in inactive status before the effective date of 4239
this section shall, not later than June 30, 2018, have the 4240
license placed in active status by meeting the continuing 4241
education requirements of section 4761.06 of the Revised Code, 4242
as amended by this act, and paying the license renewal fee 4243
specified in section 4761.07 of the Revised Code, as amended by 4244
this act. A respiratory care professional's inactive license 4245
that is not placed in active status by June 30, 2018, shall be 4246
considered expired. 4247

Section 5. This act is hereby declared to be an emergency 4248
measure necessary for the immediate preservation of the public 4249
peace, health, and safety. The reason for such necessity is that 4250
impaired practitioners present significant risks to the health 4251
and safety of patients in this state and improved access to 4252
substance abuse treatment for those practitioners greatly 4253
decreases those risks. Therefore, this act shall go into 4254
immediate effect. 4255